

Gasior Declaration

Exhibit 13

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

ANGIE CRUZ, I.H., AR'ES
5 KPAKA, and RIYA CHRISTIE, on
6 behalf of themselves and all
7 others similarly situated,

8 Plaintiffs,

9 vs. No. 14-CV-4456(JSR)(GWG)

10 HOWARD ZUCKER, as Commissioner
11 of the New York State
12 Department of Health,
Defendant.

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16 DEPOSITION OF JACK DRESCHER, M.D.
17 New York, New York
18 Tuesday, August 11, 2015
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24 Reported by:
Diane Buchanan
25

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3 August 11, 2015</p> <p>4 9:37 a.m.</p> <p>5</p> <p>6 Deposition of JACK DRESCHER,</p> <p>7 M.D., held at the offices of State of</p> <p>8 New York Office of the Attorney</p> <p>9 General, 120 Broadway, New York, New</p> <p>10 York, pursuant to Notice, before Diane</p> <p>11 Buchanan, a Notary Public of the State</p> <p>12 of New York.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1</p> <p>2</p> <p>3 A P P E A R A N C E S:</p> <p>4</p> <p>5 STATE OF NEW YORK OFFICE OF THE ATTORNEY</p> <p>6 GENERAL ERIC T. SCHNEIDERMAN</p> <p>7 Attorneys for Defendant</p> <p>8 120 Broadway</p> <p>9 New York, New York 10271</p> <p>10 BY: JOHN GASIOR, ESQ.</p> <p>11 ZOEY S. CHENITZ, ESQ.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 THE LEGAL AID SOCIETY</p> <p>5 Attorneys for Plaintiffs and Jack</p> <p>6 Drescher, M.D.</p> <p>7 199 Water Street</p> <p>8 New York, New York 10038</p> <p>9 BY: BELKYS GARCIA, ESQ.</p> <p>10</p> <p>11 WILLKIE, FARR & GALLAGHER, LLP</p> <p>12 Attorneys for Plaintiffs</p> <p>13 787 Seventh Avenue</p> <p>14 New York, New York 10019</p> <p>15 BY: CHRISTOPHER J. McNAMARA, ESQ.</p> <p>16</p> <p>17 SYLVIA RIVERA LAW PROJECT</p> <p>18 Attorneys for Plaintiffs</p> <p>19 147 West 24th Street</p> <p>20 New York, New York 10011</p> <p>21 BY: MIK KINKEAD, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2</p> <p>3 IT IS HEREBY STIPULATED AND AGREED,</p> <p>4 by and between the attorneys for the</p> <p>5 respective parties herein, that filing and</p> <p>6 sealing be and the same are hereby waived.</p> <p>7 IT IS FURTHER STIPULATED AND AGREED</p> <p>8 that all objections, except as to the form</p> <p>9 of the question, shall be reserved to the</p> <p>10 time of the trial.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the within deposition may be sworn to</p> <p>13 and signed before any officer authorized to</p> <p>14 administer an oath, with the same force and</p> <p>15 effect as if signed and sworn to before the</p> <p>16 Court.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 J. Drescher, M.D. 2 J A C K D R E S C H E R, M.D., called as a 3 witness, having been duly sworn by a Notary 4 Public, was examined and testified as 5 follows: 6 EXAMINATION BY 7 MR. GASIOR: 8 Q. Would you state your name and 9 address. 10 A. Jack Drescher, M.D., 440 West 24th 11 Street, New York, New York 10011. 12 Q. Good morning. I'm John Gasior. 13 I'm an Assistant Attorney General for the 14 State of New York, counsel for Defendant in 15 this action. 16 Will you state your name for the 17 record. 18 A. Jack Drescher. 19 Q. Good morning. Is it Dr. Drescher? 20 A. Yes, Dr. Drescher. 21 Q. Good morning. I'm going to be 22 asking you a series of questions today 23 regarding an expert opinion that you offered 24 in this proceeding. This proceeding is a 25 case pending in the Southern District of</p>	<p style="text-align: right;">Page 8</p> <p>1 J. Drescher, M.D. 2 understand where I'm going with the question 3 or think you do at some point and if we start 4 talking over each other, it makes it more 5 difficult for our court reporter, Diane, to 6 take down what we are saying. I will try to 7 do the same for you. I will try not to talk 8 over you, and if you do the same for me, that 9 would make our court reporter's task much 10 easier. 11 Can we both do that? 12 A. Yes. 13 Q. Your testimony today is under oath, 14 it's as if you were in a court of law; do you 15 understand that? 16 A. Yes. 17 Q. Is there any medical reason why you 18 can't proceed today to give testimony that's 19 sworn under oath? 20 A. No. 21 Q. Are you taking medication that 22 might impair your memory or ability to 23 testify truthfully? 24 A. No. 25 Q. Have you ever been deposed before?</p>
<p style="text-align: right;">Page 7</p> <p>1 J. Drescher, M.D. 2 New York, a federal court case. If at any 3 time you don't understand one of my questions 4 today, please let me know that you don't 5 understand it and I will try to rephrase it 6 or, perhaps, we can have the court reporter 7 read it back. 8 If I at some point start dropping 9 my voice today, we have quite a distance 10 between us here today, if you don't hear me, 11 let me know. I will try to pick my voice 12 back up. I would ask you to keep your voice 13 level up because the court reporter is taking 14 a transcript of what you say and so she needs 15 to be able to hear you, number one. But she 16 also needs to hear you, so she can't hear 17 like a nod of the head or shake of the head. 18 So if you give any answers, please make sure 19 to make them verbally and not with a gesture 20 of your head. 21 Can we do that today? 22 A. Yes. 23 Q. Please in that respect, please wait 24 until I finish asking my question. If you 25 start talking at the same time -- you may</p>	<p style="text-align: right;">Page 9</p> <p>1 J. Drescher, M.D. 2 A. Yes. 3 Q. How many times have you been 4 deposed? 5 A. Just once. 6 Q. And what was the case in which you 7 were deposed? 8 A. It was a class action lawsuit in 9 California against eHarmony.com and I was an 10 expert witness for the plaintiff. 11 Q. EHarmony. What was the nature of 12 the case? 13 A. Yes. 14 Q. What was the nature of that case? 15 A. They were not permitting gay people 16 to meet each other on the dating website and 17 in California the argument was that was 18 discriminatory. And so the plaintiffs were 19 suing for the right to use eHarmony services 20 and find eHarmony in violation. 21 Q. What year was that? 22 A. I think it was 2009. 23 Q. What was the nature of your 24 involvement there; why were you giving 25 testimony?</p>

<p style="text-align: right;">Page 10</p> <p>1 J. Drescher, M.D. 2 A. I was called to give testimony by 3 the attorneys for the plaintiff. There had 4 been several suits against eHarmony and 5 several years earlier I had been interviewed 6 by USA Today about what I thought of their 7 policies. That's how the attorneys found me. 8 They thought I might have expertise in 9 helping them make their arguments. 10 Q. Other than the eHarmony litigation, 11 have you given testimony before in an 12 administrative body of any kind? 13 A. No. 14 Q. How about testimony before a 15 legislative body? 16 A. I have been invited to give 17 testimony in New Jersey about a law that they 18 were planning to pass. I think it was an 19 assembly. The assembly in New Jersey passed 20 a law banning conversion therapy. This was 21 before the passing of the law and I was asked 22 to give testimony before that assembly. 23 Q. Do you recall what year that was? 24 A. Roughly two or three years ago. 25 Q. Any other sworn testimony in either</p>	<p style="text-align: right;">Page 12</p> <p>1 J. Drescher, M.D. 2 during the deposition. I thought we would 3 get those out on the table before so we will 4 have, say, shorthand between us. 5 The Cruz litigation, Cruz v. 6 Zucker, is the litigation that brought us 7 here today. If I refer at any point in time 8 during the deposition today to the Cruz 9 litigation, will you understand that I'm 10 talking about the litigation that we are here 11 for today? 12 A. Um-hum. I understand that. 13 Q. At some point I may -- we are going 14 to be talking today probably at length about 15 gender dysphoria. So at various points in 16 time I may slip into using the term "GD" and 17 when I do that, I'm referring to gender 18 dysphoria. 19 Can we both agree if I start using 20 GD, you will understand that means gender 21 dysphoria? 22 A. I understand. 23 Q. I may at times refer to some 24 questions that in the past before the 25 diagnosis of gender dysphoria had be widely</p>
<p style="text-align: right;">Page 11</p> <p>1 J. Drescher, M.D. 2 a court of law, administrative hearing? 3 A. No. 4 Q. Did you meet with any attorneys to 5 prepare for your deposition today? 6 A. Yes. 7 Q. With whom did you meet? 8 A. I met with the two attorneys here 9 in the room, Mr. McNamara, Ms. Garcia, and I 10 met with one of the partners from Willkie 11 Farr, Mary I think her name is, the attorney 12 from Sylvia Rivera whose name alludes me, and 13 a couple of other associates from Wilkie 14 Farr. 15 Q. Approximately how long did you meet 16 with these attorneys? 17 A. I met approximately for four hours 18 last month and four or five hours last 19 Friday. 20 Q. Did they give you any guidance on 21 how to prepare for your deposition? 22 A. Yes. 23 Q. All right. Good. I'm sure they 24 did a great job. 25 I will be using a few brief terms</p>	<p style="text-align: right;">Page 13</p> <p>1 J. Drescher, M.D. 2 used today is my understanding, there may 3 have been other terms that were used for a 4 similar diagnosis to gender dysphoria. If I 5 use the term "GD" or "gender dysphoria" and 6 your answer would require you to refer to a 7 prior nomenclature, a term that preceded 8 gender dysphoria, will you let me know I need 9 to clarify my question? 10 A. I didn't quite understand. 11 Q. You understand gender identity 12 disorder? 13 A. Yes. 14 Q. What is that? 15 A. What gender dysphoria used to be 16 called. 17 Q. If within my question I refer to 18 gender dysphoria and you think the answer to 19 would tend to refer to gender identity 20 disorder, will you understand? 21 A. Yes. 22 Q. If I use GD, you understand? 23 A. Yes. 24 Q. At some point, I may start talking 25 about the diagnostic mental disorders that's</p>

4 (Pages 10 - 13)

<p style="text-align: right;">Page 14</p> <p>1 J. Drescher, M.D. 2 published by the American Psychiatric 3 Association. Are you familiar with that 4 volume, that document? 5 A. Yes, I participated in the latest 6 iteration. 7 Q. And so can you tell me briefly, so 8 we have that on the record, what your 9 understanding is of the diagnostic and 10 statistical manual of mental disorders? 11 A. It is a compendium of diagnoses, 12 psychiatric diagnosis of disorders published 13 by the American Psychiatric Association. 14 Q. If at some point during the course 15 of the deposition I refer to the DSM, do you 16 understand diagnostic and statistical value 17 of mental disorders? 18 A. Yes. 19 Q. Is there a current version of the 20 DSM? 21 A. Yes, DSM-V. 22 Q. Unless I tell you otherwise, if I 23 refer to the DSM I will be referring to the 24 DSM-V or an earlier version; can we agree on 25 that?</p>	<p style="text-align: right;">Page 16</p> <p>1 J. Drescher, M.D. 2 A. Yes, I am. 3 MR. GASIOR: Let's mark this as 4 Drescher Exhibit B. 5 (18-page report of Jack Drescher, 6 M.D. marked Drescher Exhibit B for 7 identification, as of this date.) 8 Q. Dr. Drescher, the court reporter 9 has handed you an exhibit that has been 10 marked Drescher Exhibit B. At the top of the 11 page it has what appears to be a letterhead, 12 I will characterize it as that, "Jack 13 Drescher, M.D., P.C." and it is dated May 1, 14 2015 and it is comprised of 18 pages. 15 Do you see this document? 16 A. Yes. 17 Q. Can you tell me what this document 18 is? 19 A. This is my expert witness report. 20 Q. And did you personally prepare the 21 expert report? 22 A. Yes. 23 Q. Did you prepare the document that's 24 been marked as Drescher Exhibit B? 25 A. Yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 J. Drescher, M.D. 2 A. Yes. 3 MR. GASIOR: Can we mark this as 4 Drescher A. 5 (Subpoena marked Drescher Exhibit A 6 for identification, as of this date.) 7 Q. Dr. Drescher, the court reporter 8 handed you a document marked Drescher 9 Exhibit A. 10 Do you have that document? 11 A. Yes. 12 Q. The first page of Drescher 13 Exhibit A says at the top issued by the 14 United States District Court, subpoena in a 15 civil case, Cruz, plaintiff v. Zucker, 16 defendant, Case Number ESNY 4456. It's 17 addressed to Jack Drescher, M.D., P.C. 18 Do you see that document, Dr. 19 Drescher? 20 A. Yes. 21 Q. Have you received this subpoena 22 prior to today? 23 A. Yes. 24 Q. And are you appearing here today 25 pursuant to the subpoena to give testimony?</p>	<p style="text-align: right;">Page 17</p> <p>1 J. Drescher, M.D. 2 Q. Why did you prepare this report? 3 A. I was contacted by Legal Aid and 4 asked if I would prepare a report. 5 MR. GASIOR: It's 9:52. This might 6 be a good time for us to stop. We will 7 take a brief recess to have a conference 8 call with the court and we will come 9 back and keep things moving. 10 (Recess taken.) 11 Q. Dr. Drescher, we are back on the 12 record. Thanks for your patience. I know we 13 had just marked Drescher Exhibit B and I 14 believe that we were asking about your 15 preparation of that report or maybe -- 16 A. You asked me who had asked me to 17 prepare the report. 18 Q. I think you answered that question. 19 A. I did. 20 Q. How long did it take you to prepare 21 the report? 22 A. I don't remember. I don't 23 remember. Maybe eight hours preparation and 24 writing the report. Together maybe about 25 eight hours or so.</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 J. Drescher, M.D.</p> <p>2 Q. Are you being compensated by</p> <p>3 plaintiffs to give expert testimony here</p> <p>4 today?</p> <p>5 A. Yes.</p> <p>6 Q. Were you compensated or will you be</p> <p>7 compensated for preparing the report marked</p> <p>8 Drescher Exhibit B?</p> <p>9 A. I was compensated.</p> <p>10 Q. And how are you being compensated?</p> <p>11 A. I'm compensated at a rate of \$400</p> <p>12 an hour.</p> <p>13 Q. There is a curriculum vitae</p> <p>14 starting on -- well, it's attached as</p> <p>15 Exhibit A to your report. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Is the curriculum vitae attached to</p> <p>18 your report, the information contained there,</p> <p>19 accurate?</p> <p>20 A. Yes.</p> <p>21 Q. Is there anything that has been</p> <p>22 added or you would add to that curriculum</p> <p>23 that was not there at the time you prepared</p> <p>24 the report?</p> <p>25 A. Yes, this is -- I guess this was</p>	<p style="text-align: right;">Page 20</p> <p>1 J. Drescher, M.D.</p> <p>2 describe the topic on which plaintiffs'</p> <p>3 counsel asked you to give an opinion?</p> <p>4 A. Yes.</p> <p>5 Q. What specifically are you referring</p> <p>6 to in that paragraph when you refer to,</p> <p>7 "Exclusions of coverage for gender</p> <p>8 reassignment treatments for adults with</p> <p>9 gender dysphoria"?</p> <p>10 A. I'm specifically referring to the</p> <p>11 regulation's list of excluded treatments</p> <p>12 which are deemed to be cosmetic.</p> <p>13 MR. GASIOR: And, I'm sorry, could</p> <p>14 you read that answer back.</p> <p>15 Q. We will get into that a little bit</p> <p>16 later on. But if you look at last part of</p> <p>17 page 3, the last part of page 3 and running</p> <p>18 over to page 4 of your report, does that</p> <p>19 paragraph accurately describe the materials</p> <p>20 that you reviewed in preparing your report?</p> <p>21 A. Yes.</p> <p>22 Q. So among the materials that you</p> <p>23 considered were the amended class action</p> <p>24 complaints; is that correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 J. Drescher, M.D.</p> <p>2 October. There are probably things added to</p> <p>3 that, some papers or some lectures.</p> <p>4 Q. Do you recall the nature of the</p> <p>5 materials that you would include on the</p> <p>6 curriculum vitae if you were to add them now?</p> <p>7 A. Yes. I just have -- I just</p> <p>8 published an article that I got -- went</p> <p>9 published online this week on an update on</p> <p>10 the gender diagnosis on the DSM and ICD.</p> <p>11 Q. Anything else?</p> <p>12 A. Nothing comes to mind.</p> <p>13 Q. If you turn to page 4 of Exhibit B</p> <p>14 under the title "Assignment," do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. I'm going to read that, "I have</p> <p>18 been asked to assess and give an independent</p> <p>19 expert opinion on certain exclusions of</p> <p>20 coverage for gender reassignment treatments</p> <p>21 for adults with gender dysphoria in the New</p> <p>22 York State Department of Health's Medicaid</p> <p>23 regulation called Gender Dysphoria</p> <p>24 Treatment."</p> <p>25 Does that statement accurately</p>	<p style="text-align: right;">Page 21</p> <p>1 J. Drescher, M.D.</p> <p>2 Q. And the proposed rulemaking of</p> <p>3 Regulation 18 NYCRR, Section 505.2(l)</p> <p>4 published in the New York State register of</p> <p>5 December 17, 2014; is that something you</p> <p>6 considered?</p> <p>7 A. Yes.</p> <p>8 Q. Is that something you considered?</p> <p>9 A. Yes.</p> <p>10 Q. And then the rest of the materials</p> <p>11 that are cited there, 3, 4 -- it looks like</p> <p>12 there are two number 4s. 4 is "Policy and</p> <p>13 billing guidance for regulation 18 NYCRR" and</p> <p>14 then it looks like another 4.</p> <p>15 "The World Professional Association</p> <p>16 for Transgender Health, that should probably</p> <p>17 be a 5?</p> <p>18 A. Yes.</p> <p>19 Q. And so is that the universe of</p> <p>20 documents that you considered in writing the</p> <p>21 report that's been marked as Drescher</p> <p>22 Exhibit B?</p> <p>23 A. Yes.</p> <p>24 Q. When you were referring at -- on</p> <p>25 page 2, rather -- let me make sure I get this</p>

6 (Pages 18 - 21)

<p style="text-align: right;">Page 22</p> <p>1 J. Drescher, M.D. 2 right. 3 On page 3 among the materials that 4 you considered, Item Number 2 is the proposed 5 rulemaking of regulations. Is that where you 6 found the exclusions of coverage for gender 7 reassignment treatments that we spoke about 8 earlier? 9 A. Yes, I believe so. 10 Q. If you flip over to page 12 of your 11 expert report, Drescher Exhibit B, under the 12 heading "Conclusion," do you see that? 13 A. Yes. 14 Q. I will start reading the second 15 sentence down, the one that begins "However 16 while some." Do you see that? 17 A. Yes. 18 Q. Let me read that, "While some 19 gender assignment treatments are covered, 20 Section 5052(l) now excludes payment for some 21 procedures that it deems cosmetic." Do you 22 see that? 23 A. Yes. 24 Q. When you refer to 505.2(l), what do 25 you mean?</p>	<p style="text-align: right;">Page 24</p> <p>1 J. Drescher, M.D. 2 date.) 3 Q. Dr. Drescher, the court reporter 4 has handed you a document that has been 5 marked as Drescher Exhibit C. 6 The first page of the document is 7 titled "Rulemaking Activities" and it is a 8 four-page document. On page 2 at the top the 9 header says, "Rulemaking Activities, New York 10 NYS Register/December 17, 2014." Do you have 11 that document? 12 A. Yes. 13 Q. Is this one of the documents that 14 you considered in writing your expert report? 15 A. Yes. 16 Q. Can you tell me what portion of 17 this document you considered in writing your 18 expert report? 19 A. I was asked to focus on the section 20 having to do with -- on the second page where 21 it says "Cosmetic," Roman numeral V "Cosmetic 22 surgery and procedures including, but not 23 limited to" and a listing of 13 procedures. 24 Q. That's on page 2 of the exhibit? 25 A. Page 2, yes.</p>
<p style="text-align: right;">Page 23</p> <p>1 J. Drescher, M.D. 2 A. I believe I'm referring to the 3 regulation. 4 Q. So if during the course of the 5 deposition today either you or I refer to 6 Section 505.2(l), we will be referring to the 7 Department of Health regulation concerning 8 coverage, Medicaid coverage, for transgender 9 care and services? 10 A. Yes. 11 Q. Can we understand that's the 12 shorthand we will be using? 13 A. Yes. 14 Q. It may be I will use the term "the 15 regulation" or Department of Health's 16 regulation or Section 505.2(l). You will 17 understand we are talking about the 18 regulation that is the subject of your expert 19 report? 20 A. Yes. 21 MR. GASIOR: Can we mark this as 22 Drescher Exhibit C, please. 23 (Four-page document entitled 24 "Rulemaking Activities" marked Drescher 25 Exhibit C for identification, as of this</p>	<p style="text-align: right;">Page 25</p> <p>1 J. Drescher, M.D. 2 Q. Do you have any understanding of 3 what this document is? 4 A. I may have general sense 5 understanding. This is a regulation issued 6 by the New York State Department of Health 7 saying what the -- what services the state 8 will and will not provide for treatment of 9 gender dysphoria. 10 Q. Now, this is the document 11 refers -- on the first page says, "This is a 12 rulemaking activity." Do you understand that 13 the text on page 2 that relates to 14 transgender-related care and services has 15 become an effective regulation in New York 16 State at this point? 17 A. Yes. 18 Q. And am I correct that this is the 19 document that you reviewed in order to make 20 the statement that both Section 505.2(l) now 21 excludes payment for new procedures it deems 22 cosmetic? 23 A. Yes. 24 Q. And if you look in the column, the 25 bottom of column 1 on page 2 wrapping around</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 J. Drescher, M.D. 2 to column 2 on page 2, do you see the section 3 parenthesis number 4, "Payments will not be 4 made for the following services and 5 procedures"? Do you see that? 6 A. Yes. 7 Q. And then wrapping around, I think 8 you said that it's under -- I'm not sure if 9 you identified paragraph 4, but you did refer 10 to Roman V which is titled "Cosmetic Surgery 11 Services and Procedures Including, But Not 12 Limited to." Do you see that? 13 A. Yes. 14 Q. Am I correct that paragraph 4 15 starts by stating, "Payment will not be made 16 for the following services and procedures:"? 17 Is that correct? 18 A. Yes. 19 Q. And am I correct then that 20 paragraph 4, Roman V, is what you looked at 21 to conclude there is an exclusion of coverage 22 for cosmetic procedures? 23 A. Yes. 24 Q. Sometimes it takes us a long time 25 to get to a simple point.</p>	<p style="text-align: right;">Page 28</p> <p>1 J. Drescher, M.D. 2 Q. Okay. And then you also mentioned 3 that you have expertise related to sexuality. 4 How does that differ then or how is it 5 related to gender? 6 A. Sexuality is one area of expertise, 7 gender is another area of expertise. 8 Sometimes they intersected, but often they 9 are separate categories of expertise. 10 Q. When you talk about an expertise 11 related to treatment for sexuality, what does 12 that mean? 13 A. That means that I write about areas 14 of human sexuality, expressions of human 15 sexuality, how sexuality affects people's 16 lives, their health and mental health. 17 Q. Do you have a practice in treating 18 those persons you have been speaking about 19 writing about that? Do you also have a 20 practice related to the treatment for issues 21 related to gender? 22 A. Yes, I have a private practice in 23 Chelsea in Manhattan and I treat patients who 24 come in. Many of them come in with issues 25 related to gender or their sexuality.</p>
<p style="text-align: right;">Page 27</p> <p>1 J. Drescher, M.D. 2 So from this point forward then, if 3 I make a reference to Section 505.2(1) and 4 any particular subsection paragraph (4) or 5 some other, you will understand I'm talking 6 about the regulation that is now effective as 7 we just looked at in Drescher Exhibit C? Can 8 we agree on that? 9 A. Yes. 10 Q. Dr. Drescher, maybe a little bit of 11 background now. What are your areas of 12 professional expertise? 13 A. I'm a psychiatrist, a medical 14 doctor, and psychoanalyst. And I have 15 expertise in treating issues related to 16 gender and sexuality. 17 Q. You say that you have expertise 18 related to gender and sexuality. Can you 19 please elaborate when you say you treat 20 issues related to gender, what that means? 21 A. I have published books, chapters 22 and articles and edited books dealing with 23 the mental health and health of lesbian, gay, 24 bisexual or LBG populations, publishings over 25 20 years.</p>	<p style="text-align: right;">Page 29</p> <p>1 J. Drescher, M.D. 2 Q. How long have you been treating 3 individuals for gender or sexuality-related 4 issues? 5 A. About 30 years. 6 Q. Do you hold any licensures in New 7 York State? 8 A. I'm licensed to practice medicine 9 in New York State. 10 Q. Is there a separate licensure for 11 psychiatric services? 12 A. No. 13 Q. I'm revealing my ignorance. 14 A. Okay. 15 Q. Have you ever had any dealings with 16 the New York State Department of Health? 17 A. Not that I recall. 18 Q. At one point you were employed I 19 believe by SUNY Downstate; is that correct? 20 A. Correct. 21 Q. In your employment with SUNY 22 Downstate, were you ever represented in any 23 manner by the New York State Attorney 24 General's Office? 25 A. No, I don't think so.</p>

<p style="text-align: right;">Page 30</p> <p>1 J. Drescher, M.D. 2 Q. I asked you this, but you presently 3 do actively practice any psychotherapy? 4 A. Mostly psychotherapy, yes. 5 Q. Any other areas of practice that 6 you are engaged in? 7 A. I also treat people with 8 medications. I see people just for 9 psychopharmacological treatments. 10 Q. Do all of your clientele come to 11 see you, who come to see you, for issues 12 related to gender or sexuality solely? 13 MR. GARCIA: Objection. 14 A. No. 15 Q. Do you see individuals for other 16 diagnoses? 17 A. Yes. 18 Q. What kind of diagnoses do you 19 treat? 20 A. I treat depression, I treat bipolar 21 disorder, I treat anxiety disorder, I 22 treatment obsessive compulsive, assessment 23 disorders, I treat some patients with 24 substance abuse disorders. 25 Q. What percentage of your patients</p>	<p style="text-align: right;">Page 32</p> <p>1 J. Drescher, M.D. 2 describing the discomfort people feel with 3 the body to which they were born. That's the 4 general term. The term was adopted as the 5 name of the diagnosis in the DSM-V which used 6 to be called gender identity disorder. The 7 name changed to gender dysphoria. That is 8 the name of the DSM-V diagnosis. 9 Q. Did you have any role in the 10 changing of gender identity disorder to 11 gender dysphoria? 12 A. Yes. I served on the DSM-V work 13 group on gender which was tasked with the 14 revision of the sexual revisions of the 15 DSM-IV. 16 Q. Did you say you were on a 17 committee? 18 A. It was a committee called the 19 working, the work group. 20 Q. Do you recall who else was on the 21 committee with you? 22 A. Yes. 23 Q. Can you please tell me who was on 24 the committee with you? 25 A. The chair of the committee was</p>
<p style="text-align: right;">Page 31</p> <p>1 J. Drescher, M.D. 2 would you say have issues related to gender 3 identity? 4 A. Presently maybe 15 percent, 10 to 5 15 percent. 6 Q. Maybe I should back up. When I use 7 the term "gender identity," you said you have 8 15 percent of your clientele have gender 9 issues. What does it mean to you, gender 10 identity issue? 11 A. These are patients that do not have 12 conventional presentation of gender. They 13 may be born with the body of one sex, but 14 their subjective experience that they don't 15 fit with the body that they were born with. 16 Q. Is that in any way related to 17 gender dysphoria? 18 A. That is one of the criteria of 19 making a diagnosis of gender dysphoria. 20 Q. Can you tell me in your expert 21 opinion what gender dysphoria is? 22 A. Currently gender dysphoria 23 is -- well, there are two meanings of gender 24 dysphoria. It's a technical term that's been 25 in literature for a long time basically</p>	<p style="text-align: right;">Page 33</p> <p>1 J. Drescher, M.D. 2 Kenneth J. Zucker, psychologist in Toronto. 3 Peggy Cohen-Kettenis, a psychologist from 4 Amsterdam. Freda Mongforelin, a psychiatrist 5 ULM Germany. Hinamiya Balberg, a 6 psychologist here in New York. 7 I should say there was a sub-work 8 group on gender identity disorder and a 9 larger committee working on other parts, 10 working on the sexual dysfunction and the 11 paraphilias, but working on gender identity, 12 the sub-work group was six people. And 13 William Wohlmark, psychiatrist from 14 Washington State I believe. Six of us on the 15 sub-work group working on gender identity 16 disorder. 17 Q. Did you know Kenneth J. Zucker 18 before you both served on that committee? 19 A. Yes, we had edited a book together. 20 Q. What book was that? 21 A. A book called Ex-Gay Research: 22 Analyzing the Spitzer Study. It was a 23 collection of articles that he previously 24 published in the journal he edited and 25 articles I published in a journal I was</p>

<p style="text-align: right;">Page 34</p> <p>1 J. Drescher, M.D. 2 editing at the time. 3 Q. In what field is Dr. Zucker? 4 A. Yes. 5 Q. Do you know what field Dr. Zucker 6 is in? 7 A. Child psychologist. 8 Q. Does he have a particular area of 9 practice? 10 A. Yes. He's in charge of a clinic in 11 Toronto where they provide services on issues 12 related to gender and sexuality. 13 Q. Did I hear you correctly that Dr. 14 Zucker was the chair of the committee 15 that -- 16 A. He was the chair of the 17 larger -- the entire work group of sexual and 18 gender disorder with Cohen-Kettinis. 19 Q. Do you know how Dr. Zucker came to 20 be named as chair of that committee? 21 A. I believe he was the second choice 22 of the APA or committee. As part of the 23 larger DSM process, anyone who earned more 24 than \$10,000 a year from a pharmaceutical 25 company was excluded from being able to serve</p>	<p style="text-align: right;">Page 36</p> <p>1 J. Drescher, M.D. 2 children, prepubescent children. 3 Q. Why is that? 4 A. His clinic -- the approach of his 5 clinic is to try and prevent adult 6 transsexualism. And transsexualism is 7 another term for gender dysphoria, a term 8 used as a synonym for gender dysphoria. His 9 approach is to try to prevent adult 10 transsexualism in children that appear with 11 gender dysphoria. 12 Q. Do you have an expert opinion 13 yourself about the methods employed by Dr. 14 Zucker? 15 A. Yes, I do. I don't believe Dr. 16 Zucker has proven that his method does 17 prevent gender transsexualism. And I have 18 published those opinions. 19 Q. Okay. Let me just see if I -- Dr. 20 Zucker has not proven -- 21 A. -- that he can prevent 22 transsexualism in gender dysphoria of 23 children. 24 Q. We will come back to that later. 25 For right now, I would like to finish with</p>
<p style="text-align: right;">Page 35</p> <p>1 J. Drescher, M.D. 2 on the DSM-V committee. 3 And I believe the first choice 4 was -- who was a psychiatrist, they wanted a 5 psychiatrist first, apparently did have some 6 funding from pharmaceutical companies so he 7 was not allowed to do that. So he chose Dr. 8 Zucker who served on the committee for 9 DSM-IV, a member of that committee. 10 Q. So do you have any knowledge about 11 Dr. Zucker's reputation within the community 12 of people who treat gender dysphoria issues? 13 A. Yes. 14 Q. Can you tell me what your opinion 15 is? 16 A. Of his reputation? 17 Q. Well, I actually think I misstated 18 that. 19 I think you understood what his 20 reputation was in the community. Can you 21 tell me what his reputation is in the medical 22 community? 23 A. I think he is a respected 24 researcher in the trans-community. People 25 don't like some of his purpose treating</p>	<p style="text-align: right;">Page 37</p> <p>1 J. Drescher, M.D. 2 your expertise. 3 I think we mentioned where you had 4 described what gender dysphoria is. Have you 5 treated adults with gender dysphoria? 6 A. Yes. 7 Q. Approximately how many? 8 A. Somewhere between 60 and 70. 9 Q. Did any of the adults with gender 10 dysphoria you treated have gender dysphoria 11 as a child or as an adolescent? 12 A. Yes. 13 Q. Do you know approximately how many 14 of those? 15 A. I don't know. 16 Q. Was the type of treatment -- let me 17 back up and say: Did you prescribe treatment 18 for any of those individuals, the adults who 19 had been, had gender dysphoria as a child? 20 MR. GARCIA: Objection. 21 Q. Do you understand my question? 22 A. No. 23 Q. Of those individuals who are adults 24 with gender dysphoria who you treated who had 25 had gender dysphoria as a child, talking</p>

<p style="text-align: right;">Page 38</p> <p>1 J. Drescher, M.D. 2 about that group of people, was the type of 3 treatment that you provided to that adult 4 informed by the treatment that they received 5 as a child? 6 A. No. 7 MR. GARCIA: Object to form. 8 Q. So that had no impact how you would 9 treat them, the kinds of treatments they 10 received as a child had no impact how you 11 treated them as an adult? 12 A. No. 13 Q. Why not? 14 A. Because the child, the childhood 15 presentation, is not necessarily relevant how 16 you would treat an adolescent or adult 17 patient. 18 Q. Why not? 19 A. Because it's not. 20 Q. Is it relevant at all to know what 21 kinds of treatments a child received for 22 gender dysphoria than to know how an adult is 23 presenting with gender dysphoria? 24 MR. GARCIA: Object to form. 25 A. I don't understand the question.</p>	<p style="text-align: right;">Page 40</p> <p>1 J. Drescher, M.D. 2 A. Could you say the question again. 3 (Record read.) 4 A. Yes, that's possible. 5 Q. And under what circumstance would 6 that be possible? 7 A. So if a child receives, for 8 example, puberty suppression, that child may 9 have a very different clinical presentation 10 as an adolescent or adult of gender dysphoria 11 as a child who did not receive puberty 12 suppression. 13 It's likely the child that did not 14 receive puberty suppression will have more 15 gender dysphoria because their body would 16 have gone through pubertal changes that will 17 make them more dysphoric. Someone born a boy 18 will develop an Adam's apple, a beard and 19 growth of their penis and their dysphoria 20 would be greater than a child whose puberty 21 was suppressed and be more comfortable with 22 their body. And of course that would have 23 implications of treating them if you met them 24 as an adolescent or adult. 25 Q. I believe I asked you if you've</p>
<p style="text-align: right;">Page 39</p> <p>1 J. Drescher, M.D. 2 Q. That's probably a very bad 3 question. Maybe this is asking the same 4 question again then. 5 So is your opinions about the 6 treatments of adults with gender dysphoria 7 shaped by the kinds of treatments that are 8 available to adolescents with gender 9 dysphoria? 10 A. I don't understand the question. 11 (Record read.) 12 MR. GARCIA: Same objection. 13 A. It doesn't make sense, the question 14 doesn't make sense to me. 15 Q. Probably doesn't make sense then. 16 Let me see if I can think of a way that asks 17 it in a way that makes sense. 18 Are the kinds of treatments -- 19 strike that, let me start again. 20 Are treatments that a child with 21 gender dysphoria receives likely to have an 22 impact on the kinds of treatments they will 23 need as an adult if they have gender 24 dysphoria? 25 MR. GARCIA: Object to form.</p>	<p style="text-align: right;">Page 41</p> <p>1 J. Drescher, M.D. 2 treated adults with gender dysphoria in 3 your -- is it a private practice? 4 A. Yes, private practice. 5 Q. In your private practice, have you 6 treated adolescents with gender dysphoria? 7 A. I treated adolescents as young as 8 19 years old who are still considered 9 adolescents, but 19 is probably the youngest 10 I've treated. 11 Q. I was going to make a distinction 12 between treating children. So I do 13 understand the youngest patient you have had 14 where you treated them for gender dysphoria 15 is 19 years old? 16 A. Correct, and I'm not a child 17 psychiatrist. 18 Q. What types of treatments did you 19 provide to people of the age of 19? 20 A. Treatment has included medication. 21 Treatment for depression and anxiety, 22 treatment has included psychotherapeutic 23 support for patients who might, who have been 24 suicidal. Treatment has been exploration of 25 the gender dysphoria, treatment has included</p>

<p style="text-align: right;">Page 42</p> <p>1 J. Drescher, M.D. 2 exploration of feelings about transsexual. 3 Generally I think that covers it. 4 Q. While you have not treated in your 5 private practice individuals under the age of 6 19 with gender dysphoria, have you engaged in 7 any research of gender dysphoria persons who 8 are either adolescent or children? 9 A. I have studied the issue of 10 treatment of gender dysphoric children in 11 younger adolescents. 12 Q. And by "study," what do you mean? 13 A. I have edited a book on treating 14 transgender children in adolescence in which 15 people who actually treat the children were 16 invited to present what they do and explain 17 it to, you know, a general professional 18 audience. And invited experts in the area of 19 gender sexuality, but not in this area to 20 participate in this book to offer comments 21 about their thoughts about the various 22 treatment approaches to children's 23 adolescence. I've written articles about the 24 controversies surrounding the treatment of 25 prepubescent children and I have written</p>	<p style="text-align: right;">Page 44</p> <p>1 J. Drescher, M.D. 2 dysphoria, but then there are -- 3 A. Comorbidity. 4 Q. I will try to use that term later 5 on. 6 In your practice for the treatment 7 of gender dysphoria, do you make a 8 recommendation or does part of your 9 prescription for the treatment of gender 10 dysphoria ever include a recommendation for 11 surgical procedures? 12 A. I have not written a letter to do 13 surgery. 14 Q. By "written a letter," I think you 15 said for surgery? 16 A. For surgery. 17 Q. What do you mean? 18 A. In order for people who wish to 19 transition surgically, to have the procedure 20 you usually need at least one letter from a 21 mental health professional recommending it. 22 That has not come up in my practice. 23 Q. So you have never been asked by 24 anybody nor have you ever written such a 25 letter that would say, I believe this person</p>
<p style="text-align: right;">Page 43</p> <p>1 J. Drescher, M.D. 2 articles about ethical issues that the 3 treatment approaches may raise. 4 Q. I may have asked you this, but when 5 did you begin treating patients with issues 6 related to gender identity? 7 A. In the 1990s. 8 Q. And what was the nature of the 9 treatment that you provided in the 1990s? 10 And let me maybe give that some context. Is 11 it any different than the kind of treatments 12 you are offering today? 13 A. Well, I'm better at it now. 14 Q. One would hope. 15 A. No, I mean, patients -- patients 16 who come in with, have always come in with 17 treatments not only related to gender 18 dysphoria, but also related to depression, 19 anxiety and other issues they are dealing 20 with. And I think that's still the case. 21 It's never about gender dysphoria. There are 22 often other things going on. 23 Q. Is there a term you use 24 "co-occurring conditions," would that be the 25 term you would use for someone who has gender</p>	<p style="text-align: right;">Page 45</p> <p>1 J. Drescher, M.D. 2 is -- 3 A. Candidate. 4 Q. -- a candidate for surgical 5 procedure to treat gender dysphoria? 6 A. I have not written such a letter. 7 Q. How about any kind of 8 recommendation for treatment involving 9 hormones; have you done that? 10 A. No, I have not had to write a 11 letter for that either. Mostly because the 12 people that I have referred, the doctors 13 haven't asked for letters for hormone 14 treatment. 15 Q. Any of the individuals that you 16 have treated for gender dysphoria at the time 17 you were treating, were they presently taking 18 hormones to treat gender dysphoria? 19 A. Yes. 20 MR. GARCIA: I would like remind 21 you to allow Mr. Gasior to finish the 22 question. 23 Q. It will make your attorney happy if 24 you allow me to finish the question. 25 If I understand your testimony, you</p>

12 (Pages 42 - 45)

<p style="text-align: right;">Page 46</p> <p>1 J. Drescher, M.D. 2 were not the doctor who prescribed hormones 3 for them? 4 A. I don't prescribe hormones. That's 5 usually an endocrinologist or internist that 6 does that. 7 Q. Let me ask you some general 8 questions at this point. What is gender 9 identity? 10 A. Gender identity is a term formed in 11 the 1960s by a psychiatrist Stoller, 12 S-T-O-L-L-E-R, Robert Stoller, which is an 13 individual's inner sense of being male, 14 female or some other gender. 15 Q. Is gender identity a term that's 16 currently used today? 17 A. Yes. 18 Q. Is there any medical consensus 19 about what factors may contribute to form 20 gender identity? 21 A. Nobody knows what causes a 22 transgender identity or SIS, S-I-S, gender 23 identity refers to -- it's a term from the 24 transgender community that refers to people 25 who are not transgender.</p>	<p style="text-align: right;">Page 48</p> <p>1 J. Drescher, M.D. 2 criteria. 3 Q. Are there any psychiatric 4 conditions that should be ruled out before a 5 psychiatrist can make a confident diagnosis 6 of gender dysphoria? 7 A. Yes, there are several exclusionary 8 diagnoses listed in the DSM you want. 9 Sometimes psychosis can be confused with 10 gender dysphoria. Sometimes just having 11 gender atypical feelings or behavior can be 12 confused with gender dysphoria. Sometimes 13 people have body dysmorphic disorder 14 discomfort with their body that may be 15 confused with gender dysphoria. Those are 16 some of the things you may want to rule out. 17 Q. The things you just spoke about, 18 are those what we earlier called or what you 19 earlier described as comorbidity? 20 A. No, those are exclusionary 21 diagnoses. Meaning when you make a 22 diagnosis, you want to separate the diagnosis 23 you are making from other possibilities. By 24 example, if you go to see your doctor for a 25 cough, he might want to rule out a viral</p>
<p style="text-align: right;">Page 47</p> <p>1 J. Drescher, M.D. 2 Q. So does the term "SIS gender" cover 3 everybody that is not transgender? 4 A. In the terms of the transgender 5 community, yes. 6 Q. Is that how you use the term? 7 A. Yes. 8 Q. Is an individual's gender identity 9 permanent or can it change over time? 10 A. That may vary. For most people 11 gender identity is fixed, for some people it 12 is not. 13 Q. Is there a consensus in the field 14 of psychiatry as to the cause of gender 15 dysphoria? 16 A. The cause of gender dysphoria is 17 not known. 18 Q. Do you have a professional opinion 19 about the cause of gender dysphoria? 20 A. No. 21 Q. Is it part of your practice to make 22 a diagnosis that someone has gender 23 dysphoria? 24 A. I make a diagnosis of gender 25 dysphoria if the person meets the diagnostic</p>	<p style="text-align: right;">Page 49</p> <p>1 J. Drescher, M.D. 2 infection versus bacteria versus pneumonia as 3 cause. So you are looking at more than one 4 diagnoses, you want to be more precise in 5 making the diagnosis. 6 Q. So when we are talking about 7 comorbidities with a diagnosis of gender 8 dysphoria, what are we talking about? 9 A. Comorbidity refers to in addition 10 to gender dysphoria, they have other 11 diagnoses. So one is a list of things you 12 don't have and one is a list of things you 13 might have in addition to gender dysphoria. 14 Q. With respect to the list of things 15 you don't have, what kind of -- if you are 16 making a diagnosis where you are thinking 17 maybe this is gender dysphoria, what kinds of 18 things are we talking about that it's not? 19 MR. GARCIA: Object to form. 20 You may answer. 21 A. Well, a person for example who has 22 a psychotic delusion about their body, that 23 could be interpreted as gender dysphoria. 24 But then you look for other signs of 25 psychosis. And if you were to treat the</p>

13 (Pages 46 - 49)

<p style="text-align: right;">Page 50</p> <p>1 J. Drescher, M.D. 2 psychosis, usually the delusional material 3 would go away. So that person doesn't have 4 gender dysphoria, they have a psychotic 5 condition. That's how you make a distinction 6 from one diagnosis to the other. 7 Q. Anything other than psychosis that 8 might fit that category also? 9 A. Well there are gender atypical 10 presentations, that some people are not 11 conventional in the way they think their 12 gender is and that doesn't necessarily mean 13 they have gender dysphoria. A person might, 14 for example, might like to cross-dress, but 15 they don't feel uncomfortable in their 16 bodies. They just like to cross-dress, that 17 would not be a diagnosis of gender dysphoria. 18 Q. In terms of gender dysphoria, you 19 spoke about comorbidities. Are there any 20 particular comorbidities that occur that 21 present along with gender dysphoria? 22 A. Well, there is research showing 23 that there are some correlations between 24 gender dysphoria and autism spectrum 25 disorders. Why there's a correlation is</p>	<p style="text-align: right;">Page 52</p> <p>1 J. Drescher, M.D. 2 '90s. Definitely in the '90s. 3 Q. Do I understand your testimony 4 correctly to say the studies don't show why 5 there's a correlation, just there is a 6 correlation? 7 A. Yes, that is correct. 8 Q. We spoke earlier about the DSM-V, 9 do you remember that? 10 A. Yes. 11 Q. Am I correct there are criteria for 12 making a diagnosis of gender dysphoria in the 13 DSM-V? 14 A. Yes. 15 Q. Are the criteria for diagnosing 16 gender dysphoria in the DSM-V now generally 17 accepted within the field of psychiatry? 18 A. Yes. 19 Q. If you would, take a look at your 20 expert report which has been marked as 21 Drescher Exhibit B. And on page 6, do you 22 see that? 23 A. Yes. 24 Q. On page 6 -- 25 A. Yes.</p>
<p style="text-align: right;">Page 51</p> <p>1 J. Drescher, M.D. 2 unknown. There just seem to be higher 3 percentage of people with gender dysphoria 4 that may have some type of autistic disorder. 5 Q. What is an autism spectrum 6 disorder? 7 A. Now we are out of my area of 8 expertise, but autism is a psychiatric 9 condition in which the capacity for 10 interpersonal relativeness is effected and 11 people are somewhat detached from other 12 people in severe cases. Some cases they may 13 have some social skills, but not have, you 14 know, average social skills perhaps less than 15 average social skills. 16 Q. Did I understand your testimony 17 there are recent studies which seem to find 18 that -- 19 A. Correlation. 20 Q. -- a correlation between gender 21 dysphoria and autism spectrum disorders? 22 A. Yes. 23 Q. Do you know when those studies -- 24 when did those studies start to come out? 25 A. I'm not certain. Perhaps in the</p>	<p style="text-align: right;">Page 53</p> <p>1 J. Drescher, M.D. 2 Q. -- is what is listed in the first 3 paragraph, and there's text below that, 4 criteria A, criteria B. Is that the -- what 5 is that, what is listed there? 6 A. Those are the criteria from the 7 DSM-V directly copied from the DSM-V. 8 Q. And there is a criterion A and 9 criterion B. What is criterion A, generally 10 speaking? 11 A. Criterion A is -- basically 12 describes the form that the dysphoria takes 13 subjectively within the individual. What are 14 the -- I guess one would say the symptoms, 15 you know, of gender dysphoria. 16 Q. And then below that is criterion B. 17 What is generally meant by criterion B? 18 A. Criterion B, in all of, in every 19 DSM diagnosis has a distress and dysfunction 20 criteria. Which means in order to meet the 21 standard of being a psychiatric disorder, the 22 condition must cause some distress or 23 impairment and function. So it's a standard 24 criterion for all DSM-V disorders. 25 Q. In criterion A it says, "A marked</p>

<p style="text-align: right;">Page 54</p> <p>1 J. Drescher, M.D. 2 congruence runs between one's experience 3 expressed gender and assigned gender of at 4 least six months duration as manifested by at 5 least two or more of the following:" 6 Is there -- strike that. Let me 7 start again. 8 Why does criteria A require 9 duration of at least six months of gender 10 incongruence? 11 A. The idea for duration of time is 12 that it shouldn't be a transient phenomenon. 13 It's around for a while. So the idea is that 14 somebody shows up, you know, in one week they 15 are feeling some incongruence but it goes 16 away, it probably wouldn't meet criteria. 17 Q. There is a temporal element that 18 you need to see in order to make a diagnosis 19 of gender dysphoria? 20 MR. GARCIA: Object to form. 21 A. Yes. The idea is that you don't 22 want to treat transient phenomenon as if they 23 were a diagnosis as if they met the 24 diagnostic criteria. 25 Q. Is that temporal criterion</p>	<p style="text-align: right;">Page 56</p> <p>1 J. Drescher, M.D. 2 that are listed in criterion A depend 3 entirely on self-reporting by the patient, by 4 the individual. 5 A. In adults and adolescents, yes. 6 Q. Is there some other group on which 7 that would not be the case? 8 A. In children they may not portal. 9 Some of the symptom reports come from family 10 or schools. 11 Q. And looking at criterion B -- 12 criteria A you called or generalized as 13 symptoms. 14 Criteria B, is there a -- how would 15 you characterize that? You called them 16 distress or impairment. Is there somehow you 17 would categorized what is described here? 18 MR. GARCIA: Object to form. 19 A. Criteria, yes, because you would 20 say of that -- any DSM diagnosis you would 21 say do the patients symptoms also meet the 22 distress criteria. 23 Q. If we call these distress 24 criterion, you understand what I was talking 25 about?</p>
<p style="text-align: right;">Page 55</p> <p>1 J. Drescher, M.D. 2 something used with respect to other 3 diagnosis besides gender dysphoria? 4 A. Yes. It's common, for example, if 5 you are making a diagnosis of depression, 6 there's like nine symptoms to make a 7 diagnosis of major depression. And it must 8 be present for at least a week or two. 9 Q. Is there ever a reason why a 10 psychiatrist might want to take longer than 11 six months to make a diagnosis of gender 12 dysphoria? 13 MR. GARCIA: Object to form. 14 You may answer. 15 A. Yes. It's possible, for example, 16 that the patient might not be two of the six 17 criteria, but might meet one very intensely. 18 So you might want to wait to see if another 19 symptom emerges more powerfully and more 20 intensely before you make a diagnosis. 21 Q. Criterion A I believe you said are 22 -- you would describe as symptoms; is that 23 correct? 24 A. Yes. 25 Q. Does the assessment of the symptoms</p>	<p style="text-align: right;">Page 57</p> <p>1 J. Drescher, M.D. 2 A. Um-hum. 3 Q. The distress criteria listed in 4 criterion B for gender dysphoria, are these 5 unique to gender dysphoria? 6 A. I don't quite understand the 7 question. 8 Q. Well, it talks about the condition 9 which I assume means gender dysphoria, 10 correct? 11 A. Yes. 12 Q. So the condition of gender 13 dysphoria and I quote from B "is associated 14 with clinically significantly distress or 15 impairment in social, occupational or other 16 important areas of functioning." 17 You saw that text? Is that unique 18 to gender dysphoria or do other diagnoses 19 share those criteria? 20 A. The language of criterion B is 21 boilerplate and used in all DSM diagnosis. 22 The form of distress and impairment varies 23 from diagnosis to diagnosis. So the distress 24 and impairment that one finds in diagnosis of 25 gender dysphoria takes a form unique to that</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 J. Drescher, M.D. 2 diagnosis, which might be different than the 3 distress and impairment say from a diagnosis 4 of depression or psychosis. 5 Q. When you saw the form of distress, 6 are we talking about the symptoms? 7 A. It could include the symptoms 8 listed in the A criteria, but it could also 9 lead to other kinds of symptoms which might 10 involve anxiety, depression, inability to get 11 to school, inability to get to work which are 12 not specifically the A criteria. 13 Q. Those things you just described, 14 are those comorbidities? 15 A. If the depression -- you can be 16 depressed, but then not might meet depressive 17 criteria then you have comorbidity. You can 18 be depressed, but not depressed enough to 19 meet criteria, then would not be exactly a 20 comorbidity. 21 Q. I think I got you. 22 Is a gender dysphoria a permanent 23 condition? 24 A. Gender dysphoria, which appears 25 first in adolescents or adulthood, is usually</p>	<p style="text-align: right;">Page 60</p> <p>1 J. Drescher, M.D. 2 that is gender dysphoria a permanent 3 condition, I believe you started off by 4 saying in adults and adolescents. Is there 5 something different about children? 6 A. Yes. 7 Q. What is that difference? 8 A. Prepubescent children who present 9 with gender dysphoria may not be gender 10 dysphoric later on. Sometimes it resolves 11 before puberty, sometimes resolves at 12 puberty, sometimes it resolves a little after 13 puberty. 14 Q. In the context of children who are 15 being evaluated for gender dysphoria, have 16 you heard of the term "persister and 17 desister"? 18 A. Yes. 19 Q. What do those terms mean to you? 20 A. A desister is a child, prepubescent 21 child, whose gender dysphoria stops at some 22 point for reasons unknown. And persister is 23 a child whose gender dysphoria continues into 24 adolescence, again, for reasons unknown. 25 Q. When you say that there are some</p>
<p style="text-align: right;">Page 59</p> <p>1 J. Drescher, M.D. 2 a permanent condition except when it's 3 treated and then the gender dysphoria 4 diminishes. 5 Q. Is that true in all circumstances? 6 A. I don't -- nothing is 100 percent, 7 but many people do benefit from treatment and 8 their gender dysphoria gets better. 9 For example we have in the DSM-V, 10 we have added something called a 11 post-transition specifier which means that a 12 person had all of the symptoms and met 13 diagnostic criteria for gender dysphoria. 14 But they received treatment, medication, 15 surgery, it may depend on the individual what 16 treatment they received and they are no 17 longer experiencing the dysphoria because 18 they are now in the gender role. They feel 19 themselves comfortable in being, but they still 20 have a diagnosis with a specifier called 21 post-transition specifier because their 22 ongoing healthcare requires some type of 23 diagnosis. DSM-V for the first time has, as 24 I said, a post-transition specifier. 25 Q. Now, in your answer to the question</p>	<p style="text-align: right;">Page 61</p> <p>1 J. Drescher, M.D. 2 children who desist for reasons unknown, what 3 percentage of children desist? 4 A. In the current research it may vary 5 anywhere from 10 to 50 percent, depending on 6 the study. I think that's the range. 7 Q. In your experience, is there any 8 particular time in a person's life when 9 criteria B to the DSM-V gender dysphoria 10 criteria -- is there any particular point in 11 a person's life when criteria B tends to be 12 more prevalent? 13 MR. GARCIA: Object to form. 14 A. Yes, I don't -- I don't quite 15 understand the question. 16 Q. In that person's lifespan if they 17 have experienced gender dysphoria, is there a 18 particular age range when gender dysphoria 19 tends to be more prevalent? 20 A. I don't think it's related to age. 21 I think what you see, people at different 22 times in their life if they have not received 23 treatment for the gender dysphoria, it may 24 wax and wane. It may be more severe distress 25 then at one point in their life than it would</p>

16 (Pages 58 - 61)

<p style="text-align: right;">Page 62</p> <p>1 J. Drescher, M.D. 2 be at another time in their life. Again, 3 that may be related to various circumstances. 4 A person who is gender dysphoric, 5 did not get treatment for that decides to 6 stay in the -- you know, in the gender to 7 which they have been assigned at birth. Some 8 family tragedy occurs and their gender 9 dysphoria may get worse. It may be provoked 10 by external circumstances. 11 Q. So when you said that the gender 12 dysphoric can wax and wane -- 13 A. In some individuals, yes. 14 Q. And do I understand your testimony 15 that it can be a variety of circumstances 16 that cause that to happen? 17 A. Correct. And directly to your 18 question, I don't think it's necessarily 19 related to a certain age or a particular age. 20 I think it's more varied in terms of how that 21 might happen. 22 Q. Does the intensity of gender 23 dysphoria -- is it correct to talk about 24 intensity of gender dysphoria, could it be 25 greater and lesser?</p>	<p style="text-align: right;">Page 64</p> <p>1 J. Drescher, M.D. 2 Q. "The changes to the diagnostic 3 criteria are significant for a number of 4 reasons. In the DSM-IV the GID criteria for 5 adolescents and adults were somewhat vague 6 and for some even lack a reference to 7 intensity or frequency of the diagnostic 8 criteria." 9 What do you mean by the "intensity 10 or frequency of the diagnostic criteria"? 11 A. The -- well, by frequency we talk 12 about duration, for example. And intensity 13 refers to how strong the feelings are. 14 Q. Has the DSM-V included those types 15 of criteria for considerations? 16 A. Right. For example, if you look at 17 6-A all refer to a -- criteria 2 through 5 18 refer to a strong desire. The idea is to 19 sort of provide clinicians with a sense this 20 is not a casual feeling, but a very strong 21 feeling. 22 Q. Am I correct that the intensity -- 23 when you talk about intensity, are we talking 24 about criterion B or criterion A? 25 A. Criterion A.</p>
<p style="text-align: right;">Page 63</p> <p>1 J. Drescher, M.D. 2 A. Yes. 3 Q. Does the intensity waxing and 4 waning have any relationship to the kind of 5 treatment that's being provided? 6 A. It could. 7 Q. Under what circumstance? 8 A. Well, if someone is receiving 9 inadequate treatment, for example, then it 10 would be you would get exacerbation of gender 11 dysphoria. There are -- this is not from my 12 practice. This is from things I read in the 13 paper of transgender people who are 14 incarcerated. And depending on the prison 15 which they find themselves, they may or may 16 not have access to the hormones they were 17 taking before they were incarcerated. So the 18 stopping of their treatment while they are in 19 prison has certainly worsened the condition. 20 They may become suicidal, for example. 21 Q. On page 6 of your report, Drescher 22 Exhibit B, at the bottom of the page the 23 paragraph that begins "The changes to the 24 diagnostic criteria." 25 A. Yes.</p>	<p style="text-align: right;">Page 65</p> <p>1 J. Drescher, M.D. 2 Q. The intensity which those criteria 3 are felt is part of criterion A? 4 A. Right. And DSM-IV, the criteria 5 were not teased out in this way. They are 6 all sort of lumped together in a paragraph. 7 So the idea was to sort of -- what are the 8 most likely, you know, predicates for making 9 a diagnosis, could you elaborate them more 10 specifically. That was how the six criteria 11 were laid out to provide guidance with the 12 numbers in the manual. 13 Q. Is it part of what a clinician 14 treating dysphoria does to evaluate the 15 intensity? 16 A. Yes, it should be. Yes. 17 Q. How does the clinician do that? 18 A. Through experience, you meet people 19 who have a wide range of expression of any 20 range of symptoms. You know, if you are 21 working with an anxious patient, some are 22 mildly anxious and some people are very, very 23 anxious and certain kind of experience that 24 comes, a certain kind of knowledge that comes 25 with clinical experience.</p>

<p style="text-align: right;">Page 66</p> <p>1 J. Drescher, M.D.</p> <p>2 Q. To what extent does the clinician's</p> <p>3 evaluation of the intensity depend on what</p> <p>4 they are told by the person they are</p> <p>5 treating?</p> <p>6 A. Well, much of it is guided by what</p> <p>7 people say. I mean, psychiatric diagnosis</p> <p>8 have a strong degree of patient self-report</p> <p>9 in making the diagnosis. Some of the</p> <p>10 symptoms are reported from the outside. Some</p> <p>11 diagnosis with many symptoms are basically</p> <p>12 based on patient report, self-report.</p> <p>13 Q. You used the term "outside"?</p> <p>14 A. Right. You make a diagnosis of</p> <p>15 depression, for example, just as an analogy,</p> <p>16 most of the symptoms include things like I'm</p> <p>17 not sleeping at night, I feel hopeless and</p> <p>18 helpless, I feel tired during the day.</p> <p>19 Majority of patients have subjective</p> <p>20 symptoms. But one symptom dies, does the</p> <p>21 patient then restrict psychomotor retardation</p> <p>22 or psychomotor activation. Are they all</p> <p>23 speeded up is visible, that is something you</p> <p>24 would see the patient do. But majority of</p> <p>25 symptoms are patient's self-report.</p>	<p style="text-align: right;">Page 68</p> <p>1 J. Drescher, M.D.</p> <p>2 I asked earlier: In assessing a person for a</p> <p>3 gender dysphoria, how do you assess</p> <p>4 clinically significant distress or</p> <p>5 impairment?</p> <p>6 A. Well, the way to do that, talk</p> <p>7 about what is going on in their life; are</p> <p>8 they working, are they in school, how is the</p> <p>9 school function, how is the work function,</p> <p>10 are they married, are they in relationships.</p> <p>11 You get a sense whether the person's life is</p> <p>12 going well or not, that would be the</p> <p>13 impairment functioning in terms of distress.</p> <p>14 They present with depression or anxiety or</p> <p>15 suicidal feelings, those are three most</p> <p>16 common presentations of distress.</p> <p>17 Q. When you say three most</p> <p>18 common --</p> <p>19 A. -- clinical presentations --</p> <p>20 Q. -- of distress, that is with</p> <p>21 respect to gender dysphoria?</p> <p>22 A. Yes. Yes, in the sense that's</p> <p>23 correct. You know, if I -- you know, if I</p> <p>24 have to -- if I can't live like a woman, I'm</p> <p>25 going to kill myself, for example, would be</p>
<p style="text-align: right;">Page 67</p> <p>1 J. Drescher, M.D.</p> <p>2 MR. GASIOR: Would it be okay if we</p> <p>3 took a bathroom break.</p> <p>4 (Recess taken.)</p> <p>5 Q. Dr. Drescher, in your practice, how</p> <p>6 do you express marked incongruence in a</p> <p>7 person who you are assessing for gender</p> <p>8 dysphoria?</p> <p>9 A. Again, it's taking a history how</p> <p>10 long the person had the feelings, you know,</p> <p>11 how have the feelings changed over time, what</p> <p>12 is the nature of the incongruence, what</p> <p>13 exactly do they -- is the person experiencing</p> <p>14 that's different. That's what is the person</p> <p>15 experiencing in terms of is it about their</p> <p>16 body, is it about the presentation, is it</p> <p>17 about their wish to be rid of parts of their</p> <p>18 body, is it about the wish to have a</p> <p>19 different kind of body. Because it's not --</p> <p>20 as you see from the 6-A criteria, you know,</p> <p>21 there are different presentations. Some</p> <p>22 people want to be rid of body parts, some</p> <p>23 don't. So it's a way you have to like look</p> <p>24 at the different possibilities.</p> <p>25 Q. This might be related to a question</p>	<p style="text-align: right;">Page 69</p> <p>1 J. Drescher, M.D.</p> <p>2 an example of the distress and gender</p> <p>3 dysphoria.</p> <p>4 Q. If you would, turn to page 9 of</p> <p>5 your expert report marked as Drescher</p> <p>6 Exhibit B. At the bottom of the page under</p> <p>7 the heading "Gender Dysphoria Treatment," do</p> <p>8 you see that?</p> <p>9 A. Yes.</p> <p>10 Q. You make the statement, "It should</p> <p>11 be noted that GD is a unique psychiatric</p> <p>12 diagnosis." Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What does that mean, what do you</p> <p>15 mean by that?</p> <p>16 A. What I mean is what follows in the</p> <p>17 sentences after that.</p> <p>18 Q. Why don't I read that then.</p> <p>19 Following what I just read, "Most psychiatric</p> <p>20 diagnoses are aimed at reducing psychological</p> <p>21 symptoms by either psychotherapy or</p> <p>22 behavioral or medication interventions until</p> <p>23 those symptoms are gone. For example, a</p> <p>24 patient with symptoms of depression DSM-V or</p> <p>25 depressive disorder is given medication that</p>

18 (Pages 66 - 69)

<p style="text-align: right;">Page 70</p> <p>1 J. Drescher, M.D. 2 make the symptom exacerbate. 3 For more than half a century the 4 medical and psychiatric consensus regarding 5 treatment of GD, physically changes the 6 bodies with this condition rather than 7 changing their minds. Due to the uniqueness 8 of this diagnosis and the accepted treatment 9 guidelines of transforming the affected 10 individual's body who tends to move ICD 11 equivalent diagnosis of transsexualism out of 12 the mental disorder section and into a new 13 chapter, conditions related to sexual 14 health." 15 With respect to the saying that 16 most diagnoses are aimed at reducing 17 psychological symptoms in contrast to medical 18 psychiatric treatment of GD by physically 19 changing the bodies rather than changing 20 their minds, can you tell me why gender 21 dysphoria is different in this way? 22 MR. GARCIA: Object to form. 23 A. My understanding is that in the 24 early/middle of the 20th Century when 25 treatment of gender dysphoria became more</p>	<p style="text-align: right;">Page 72</p> <p>1 J. Drescher, M.D. 2 surgeons who sometimes will do that for them. 3 Q. Is that bodily integrity identity 4 disorder? 5 A. I believe so, yes. 6 Q. And is it your testimony now that 7 you believe that I will call it BIID is 8 listed in the DSM-V in an appendix, is that 9 what you said? 10 A. I'm not 100 percent certain it's 11 listed as an actual diagnosis. 12 Q. I was trying to think of other 13 examples where somebody experienced the kinds 14 of distress or impairment listed in criteria 15 B of gender dysphoria. Other 16 symptoms -- strike that. Let me start again. 17 I was trying to think of where 18 there might be distress or impairment 19 experienced by somebody because of some 20 psychological condition. It might be 21 equivalent to gender dysphoria if somebody 22 were to be demonstrating clinically 23 significant distress or impairment in social, 24 occupational or other important areas of 25 functioning because of a desire to be, for</p>
<p style="text-align: right;">Page 71</p> <p>1 J. Drescher, M.D. 2 common, that consensus of the experts was 3 that they could not change the minds of 4 people who had this condition and that it was 5 futile to try. And the only thing they could 6 do was to accommodate the ways to change the 7 body. And since the techniques for those 8 changes were available as in hormones and 9 surgical procedures, that's how the treatment 10 I think began at that time. 11 Q. So when you make the statement 12 beginning of that paragraph starting on page 13 9 at the bottom that gender dysphoria's 14 unique psychiatric diagnosis, is there, to 15 your knowledge, any other psychiatric 16 diagnosis where the treatment involves 17 surgical procedures? 18 A. Yes, there is one other. I forget 19 the name of it, but it is a diagnosis in 20 which people wish to have body part 21 amputated. It's not in the DSM. It did not 22 make it into DSM-V. I think it's in the 23 appendix of future diagnoses. There is 24 condition of people who seek out amputation, 25 either an arm or a leg, and they have found</p>	<p style="text-align: right;">Page 73</p> <p>1 J. Drescher, M.D. 2 example, of a different race. 3 Are you aware of any support in the 4 psychiatric community that would be 5 appropriate to provide such a person with 6 treatment that would physically change their 7 skin color? 8 MR. GARCIA: Object to form. 9 A. I'm unaware of anybody who would 10 provide such treatment. 11 Q. So am I correct then that in terms 12 of psychiatric diagnosis treated by a 13 surgical or hormonal treatments that are 14 intended to change the body, that gender 15 dysphoria is unique except for bodily 16 identity integrity disorder, to your 17 knowledge? 18 A. To my knowledge, yes. 19 Q. Are you familiar with the term 20 "primary sex characteristics and secondary 21 sex characteristics"? 22 A. Yes. 23 Q. Can you tell me what your 24 understanding of primary sex characteristics 25 is?</p>

<p style="text-align: right;">Page 74</p> <p>1 J. Drescher, M.D.</p> <p>2 A. Primary sex characteristics refers</p> <p>3 to genitals. Secondary sex characteristics</p> <p>4 refer to the body features, body parts</p> <p>5 associated with adult sexual development.</p> <p>6 Facial hair is secondary characteristic,</p> <p>7 pubic hair is secondary, breast development</p> <p>8 is a secondary sex characteristic. Adam's</p> <p>9 apple is a secondary sex characteristic.</p> <p>10 Q. When we were looking at the</p> <p>11 Regulation 505.2(l) and you were looking at</p> <p>12 the exclusions of certain procedures, is it</p> <p>13 your understanding that those procedures were</p> <p>14 intended or are intended to treat secondary</p> <p>15 sex characteristics?</p> <p>16 A. Yes.</p> <p>17 Q. In your practice in treating gender</p> <p>18 dysphoric people with gender dysphoria are</p> <p>19 you, the treating clinician, who would decide</p> <p>20 whether one of your patients with gender</p> <p>21 dysphoria requires a particular surgical</p> <p>22 procedure to address secondary sex</p> <p>23 characteristics?</p> <p>24 A. I am not the person who would</p> <p>25 decide that. I might be asked to weigh in</p>	<p style="text-align: right;">Page 76</p> <p>1 J. Drescher, M.D.</p> <p>2 dysphoria, what is the goal of those</p> <p>3 treatments?</p> <p>4 MR. GARCIA: Object to form.</p> <p>5 A. By treatment you mean --</p> <p>6 Q. The overall of the treatments that</p> <p>7 might be provided, what is the overall goal</p> <p>8 of those treatments?</p> <p>9 A. By treatment, do you mean medical</p> <p>10 or surgical interventions?</p> <p>11 Q. Okay, let's start there.</p> <p>12 A. The goal of medical and surgical</p> <p>13 interventions in the treatment of gender</p> <p>14 dysphoria is to reduce the dysphoria, to</p> <p>15 reduce the feeling of incongruence between</p> <p>16 the person's body and the sense of the</p> <p>17 gender, who they are.</p> <p>18 Q. Is it necessary in trying to</p> <p>19 determine what is going to help reduce</p> <p>20 incongruence that you just described, to</p> <p>21 determine whether those procedures that might</p> <p>22 help do that are medically necessary?</p> <p>23 MR. GARCIA: Object to form.</p> <p>24 A. I don't understand the question.</p> <p>25 Q. Well, with respect to the types of</p>
<p style="text-align: right;">Page 75</p> <p>1 J. Drescher, M.D.</p> <p>2 with an opinion, but I'm not the person who</p> <p>3 decides that.</p> <p>4 Q. When you say you are asked to weigh</p> <p>5 in with an opinion, what do you mean?</p> <p>6 A. Well, if the person -- if a person</p> <p>7 wants treatment, you know, the treating</p> <p>8 physician might want to say what do I think,</p> <p>9 but I'm not the person who decides.</p> <p>10 Q. You mentioned treating physician?</p> <p>11 A. Right. These treatments are all</p> <p>12 medical treatments that are provided either</p> <p>13 by endocrinologist, primary care internists</p> <p>14 or surgeons.</p> <p>15 Q. Am I correct if somebody with</p> <p>16 gender dysphoria wanted to have a tracheal</p> <p>17 shave, that it would be the primary physician</p> <p>18 who would decide whether that was appropriate</p> <p>19 but not you?</p> <p>20 A. Correct.</p> <p>21 Q. So among the universe of treatments</p> <p>22 that could be provided to somebody who has</p> <p>23 gender dysphoria and that might help them</p> <p>24 to -- let me back up and start again.</p> <p>25 In terms of treatments for gender</p>	<p style="text-align: right;">Page 77</p> <p>1 J. Drescher, M.D.</p> <p>2 treatments that could be offered to somebody</p> <p>3 with gender dysphoria, in order for those</p> <p>4 treatments to take place is it necessary for</p> <p>5 the clinician or primary caregiver, the</p> <p>6 primary treater, to make a determination that</p> <p>7 those treatments are medically necessary?</p> <p>8 A. What do you mean by "medically</p> <p>9 necessary"?</p> <p>10 Q. Do you have any understanding what</p> <p>11 the term "medical necessity" means in the</p> <p>12 context of treating somebody with gender</p> <p>13 dysphoria?</p> <p>14 A. My understanding of medical</p> <p>15 necessity is a term made by insurance</p> <p>16 companies to decide what they will and will</p> <p>17 not pay for. Physicians rarely prescribe</p> <p>18 treatment that they don't think is medically</p> <p>19 necessary. Of course there might be</p> <p>20 exceptions, but ethically we don't. We do</p> <p>21 what we think is medically necessary.</p> <p>22 Q. And how does a person treating</p> <p>23 somebody with gender dysphoria, a caregiver,</p> <p>24 care provider, make that determination what</p> <p>25 is medically necessary to treat the gender</p>

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1 J. Drescher, M.D. 2 dysphoria? 3 A. There are established protocols of 4 treatment and established protocols of 5 treatment are part of the -- depending on the 6 patient's subjectivity, not all patients 7 require all treatments. So it's a 8 collaborative effort between the patient and 9 treater to sort out what symptoms the patient 10 has and what interventions would be helpful 11 in reducing the patient's symptoms. 12 Q. When you use the term "protocols," 13 what do you mean? 14 A. The WPATH, all capital P-A-T-H, 15 WPATH standards of care. 16 Q. And so do I understand you to say 17 that the WPATH standards of care contain 18 protocols for making determinations of what 19 is medically necessary? 20 A. They have listings of all the kinds 21 of procedures that are involved in the 22 treatment of gender dysphoria to reduce 23 dysphoria. 24 Q. Do you rely upon the WPATH 25 standards of care in your practice?</p>	<p style="text-align: right;">Page 80</p> <p>1 J. Drescher, M.D. 2 with respect to somebody -- you are treating 3 for gender dysphoria that makes the 4 determination there should be a surgical 5 procedure to treat gender dysphoria? 6 A. Correct. That is referred to as 7 the gatekeeper function of mental health 8 function, which is a traditional function of 9 mental health, but not used as much as it 10 used to be. 11 Q. The term "gatekeeper" -- 12 A. The gatekeeping function is not 13 what it used to be. In the middle of the 14 20th Century, the role of the mental health 15 professional was to seek out what was then 16 referred to as the true transsexual. So if 17 you were born in a man's body and you wanted 18 to be a woman, you felt you were a woman and 19 wished to transition, but you were attracted 20 to women, for example, the mental health 21 professional would make the assessment you 22 could not make the transition because the 23 gatekeeping function was to treat 24 heterosexual people at the end of transition. 25 So that was one of the examples of the</p>
<p style="text-align: right;">Page 79</p> <p>1 J. Drescher, M.D. 2 A. The WPATH standards of care don't 3 really outline what psychological treatments 4 might be necessary. They allude to them and 5 talk about that sometimes they are necessary 6 and helpful, but they don't really have 7 psychological guidelines for treatment. 8 Q. So in terms of your practice and 9 what you do for persons with gender 10 dysphoria, is it correct to say that the 11 WPATH standard of care really doesn't address 12 your area of treatment? 13 MR. GARCIA: Object to form. 14 A. Well, the WPATH standards of care 15 suggests that clinicians be familiar with 16 gender dysphoria, they have some expertise in 17 the area, that they be sensitive to some of 18 the issues, sensitivities of people, you 19 know, who have gender dysphoria. But in 20 terms of what medications you use for the 21 depression or anxiety or how, you know, how 22 to discuss one's life and treatment, that's 23 not really in the WPATH standards of care. 24 Q. And just so I'm correct, in your 25 earlier testimony you are not the individual</p>	<p style="text-align: right;">Page 81</p> <p>1 J. Drescher, M.D. 2 gatekeeping function. 3 So it was -- so what often used to 4 happen is that people in the trans-community 5 who got to know each other before, you know, 6 they would prep each other, you know, on the 7 right thing you had to say to the doctor in 8 order to get through the gatekeeping function 9 of doctors. They had to adhere to a certain 10 narrative in order for you to get treatment. 11 So that's not really going on because nobody 12 cares anymore about your sexual orientation 13 as part of your transition. It's not a 14 clinical issue anymore. 15 Q. Do I understand your testimony this 16 gatekeeping function is not as prevalent 17 anymore as it used to be? 18 A. Yes. 19 Q. And so were you testifying that in 20 some sense you serve as a gatekeeper? 21 A. I don't serve as a gatekeeper. 22 Q. I have to come back to that later. 23 MR. GASIOR: If we could, I would 24 like to mark this as Drescher Exhibit D. 25 (Booklet entitled "Standards of</p>

<p style="text-align: right;">Page 82</p> <p>1 J. Drescher, M.D. 2 Care for the Health of Transsexual 3 Transgender and Gender Nonconforming 4 People" marked Drescher Exhibit D for 5 identification, as of this date.) 6 Q. Dr. Drescher, the court reporter 7 has handed you a document which has been 8 marked as Drescher Exhibit D. On the front 9 page it says in the upper left-hand corner, 10 "WPATH," W-P-A-T-H all caps, "World 11 Professional Association for Transgender 12 Health" and has the title "Standards of Care 13 for the Health of Transsexual Transgender and 14 Gender Nonconforming People." 15 Do you see that? 16 A. Yes. 17 Q. And I will refer to this as the 18 standards of care, is that okay? 19 A. Yes. 20 Q. Are you familiar with the standards 21 of care? 22 A. Yes. 23 Q. What is the standard of care? 24 A. The standards of care is a 25 consensus document produced by a</p>	<p style="text-align: right;">Page 84</p> <p>1 J. Drescher, M.D. 2 timing and implications of such procedures in 3 the context of the overall coming out or 4 transition process." 5 Do you see that? 6 A. Yes. 7 Q. Do you have an understanding when 8 it says that the SOC do not state criteria 9 for other surgical procedures, feminizing or 10 masculinizing facial surgery? 11 MR. GARCIA: Object to form. 12 Can you read that back. 13 Q. Let me say it again. That 14 statement the standard, the SOC standards, 15 that SOC refers to standard of care, is that 16 what you understand? 17 A. Yes. 18 Q. The SOC do not state criteria for 19 other surgical procedure such as feminizing 20 or masculinizing facial surgery, what is your 21 understanding the SOC do not state criteria 22 for those procedures? 23 A. In my understanding, in contrast to 24 what follows in terms of the surgery where 25 they list specific criteria, you know, their</p>
<p style="text-align: right;">Page 83</p> <p>1 J. Drescher, M.D. 2 professional, international professional 3 organization called the World Professional 4 Association for Transgender Health or WPATH. 5 Q. Is there a document which you 6 utilize in your practice? 7 A. It's a document I occasionally 8 refer to in my practice. 9 Q. Is there a document you utilized in 10 preparing your expert report that's marked 11 Drescher Exhibit B? 12 A. Yes. 13 Q. Would you turn with me to page 27 14 of Drescher Exhibit D. Do you have that? 15 A. Yes. 16 Q. Do you see the first full paragraph 17 there, the one that begins "The SOC"? 18 A. Yes. 19 Q. Let me read that quote, "The SOC do 20 not state criteria for other surgical 21 procedures, such as feminizing or 22 masculinizing a facial surgery; however 23 mental health professionals can play an 24 important role in helping their clients to 25 make fully-informed decisions about the</p>	<p style="text-align: right;">Page 85</p> <p>1 J. Drescher, M.D. 2 criteria are not as specific for surgery 3 basically for sensory assigning surgery. 4 Q. When you say not as specific, are 5 there any criteria for -- strike that. 6 When it's talking about other 7 surgical procedure, feminizing or 8 masculinizing facial surgery, are those 9 surgeries which could be called cosmetic? 10 MR. GARCIA: Object to form. 11 A. Well, they don't use the term 12 "cosmetic." They use it feminizing or 13 masculinizing facial surgery, so it's since 14 part of gender dysphoria is one feels 15 feminize or masculine after transition. 16 Q. When you talk about feminizing or 17 masculinizing, what kind of procedure is 18 being referenced there? 19 A. I'm not sure of specific procedures 20 to -- sort of feminizing surgery to, for 21 example, shave the Adam's apple down. Some 22 people they have -- born a man they have 23 prominent chins, they may need chin 24 reduction. For example, perhaps their nose 25 is more masculine looking than a typical</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 J. Drescher, M.D. 2 female. So those kind of procedures. 3 Q. If you were to look at what has 4 been marked as Drescher Exhibit C on page 2 5 and that was the list of procedures under 6 paragraph 4, Roman V that we looked at 7 earlier, do you see that? 8 A. Yes. 9 Q. We are talking about breast, brow 10 or face or forehead lifts. Are those the 11 types of procedures you were just describing 12 on page 27 of the standards of care? 13 A. Yes. 14 Q. And so the procedures that were 15 just described in the standards of care on 16 page 27 would correspond to the types of 17 procedures that are listed in paragraph 4, 18 Roman V of the regulation; is that correct? 19 A. Yes. 20 Q. And they may have been calling them 21 cosmetic procedures in the regulations, but 22 what we are talking about are the same 23 procedures just being described on page 27 of 24 the standards of care; is that correct? 25 A. I believe so.</p>	<p style="text-align: right;">Page 88</p> <p>1 J. Drescher, M.D. 2 if I say "cosmetic procedures" will you 3 understand I'm talking about those procedures 4 limited in paragraph 4-V of the regulation? 5 I'm trying to get some shorthand. 6 A. I would understand. But I would 7 prefer to talk as standard of care does, 8 feminizing or masculinizing facial surgery. 9 Q. Let me maybe back up. In that 10 paragraph where it talks about feminizing or 11 masculinizing facial surgery, is it your 12 understanding that that's the universe of 13 procedures that the standards of care does 14 not describe or are those examples of other 15 procedures? 16 A. I don't know the answer to that 17 question. 18 Q. Do you know of any other place in 19 the standards of care where it talks about 20 surgical procedures that are -- strike that. 21 I believe your testimony was the 22 standards of care describe procedures that 23 are recommended for basically genital 24 reassignment surgeries; is that correct? 25 A. Correct.</p>
<p style="text-align: right;">Page 87</p> <p>1 J. Drescher, M.D. 2 Q. We were sort of talking over each 3 other, okay. 4 Do you have any understanding of 5 why the standards of care published by WPATH 6 don't state criteria for the surgical 7 procedures that we just looked at on page 27? 8 A. Although I'm not part of the WPATH 9 standards of care development process, I'm 10 not privy to how they -- how they came to 11 this decision. I have no idea. 12 Q. Are you aware of any situation or 13 circumstance as part of your experience as a 14 treating clinician for people with gender 15 dysphoria with Adam's apple, aware of any 16 circumstance where you would ever conclude 17 that treatment like those that are described 18 in paragraph 27 -- let me stop. 19 If we can use for shorthand 20 purposes, whether you agree with -- just for 21 shorthand purposes that when we are talking 22 about the treatments that are described on 23 page 27 of the standards of care which we 24 said corresponded to those listed at 25 paragraph 4, Roman V of the new regulation,</p>	<p style="text-align: right;">Page 89</p> <p>1 J. Drescher, M.D. 2 Q. And that procedures such as 3 feminizing or masculinizing facial surgeries 4 are in distinction to that; is that correct? 5 A. I'm looking at my copy of the 6 standards of care remembering somewhere a 7 list of procedures. I may be remembering 8 something else. 9 MR. GARCIA: I think he pointed out 10 something on page 57. I will ask if 11 that's what he was referring to. 12 THE WITNESS: Yes, page 57. This 13 lists all of the surgical procedures. 14 Thank you. 15 Q. So we are looking at page 57, an 16 overview of surgical procedures for patients 17 with gender dysphoria. What particular 18 portion of this page are you looking at? 19 A. I'm looking at -- they list all of 20 the possible surgical procedures first for 21 male-to-female patients and then 22 female-to-male patients. And so they divided 23 up into breast, genital and nongenital, 24 non-breast surgical interventions. Those are 25 the three categories used in the standards of</p>

<p style="text-align: right;">Page 90</p> <p>1 J. Drescher, M.D. 2 care. 3 Q. With respect to those in item 3? 4 A. Yes. 5 Q. Are those surgical procedures 6 related to secondary sex characteristics or 7 primary? 8 A. Secondary sex characteristics. 9 Q. I will come back to this topic in a 10 little bit. Let's just move on to something 11 else. 12 In your report on page 9 where we 13 had discussion on there, you said gender 14 dysphoria is a unique psychiatric diagnosis. 15 Can you please list for me in the ways that 16 it is unique? 17 MR. GARCIA: Object to form. 18 A. I believe I answered that question. 19 Q. If you could, give me a general -- 20 A. It's unique in that the treatment 21 of the subjective symptoms is not to change 22 the person's mind, but to change the person's 23 body. 24 Q. And I believe that your testimony 25 was that except perhaps for bodily identity</p>	<p style="text-align: right;">Page 92</p> <p>1 J. Drescher, M.D. 2 or mood disorders, anxiety disorders, 3 substance abuse disorders. 4 Q. Now, to your knowledge, those 5 comorbidities conditions, are those with 6 respect to gender dysphoria, are they 7 causative or are they co-relative? 8 A. I don't think the answer to that 9 question is no. I mean, there are people 10 that believe minority stress is the cause of 11 depressive anxiety and substance abuse 12 disorders, but the research there is sketchy 13 in the sense almost all studies have been 14 done with convenient samples in studies of 15 small number of patients. 16 Q. How do persons with gender 17 dysphoria tend to fair with respect to their 18 comorbid conditions after they have gone 19 gender transition? 20 MR. GARCIA: Object to form. 21 A. Well, the data that does exist 22 suggests that transition which has been 23 common in a way, that's consistent with 24 standards of care tends to reduce 25 psychological and psychiatric symptoms and</p>
<p style="text-align: right;">Page 91</p> <p>1 J. Drescher, M.D. 2 integrity disorder, you are not aware of any 3 other psychiatric diagnosis where the 4 treatment regimen that's employed by the 5 medical community is to perform surgery or to 6 use hormones to change the body; is that 7 correct? 8 A. That is my understanding. 9 Q. On page 9 of your report you make 10 note that adults with gender dysphoria have 11 significant patterns of comorbidity, 12 including -- 13 MR. GARCIA: Can you point me to 14 where you are talking about? 15 MR. GASIOR: In the fourth line 16 from the top. 17 A. I see that. 18 MR. GASIOR: Where it says, 19 "Studies have shown significant 20 comorbidity for adults with GD." 21 Q. Do you see that? 22 A. Yes. 23 Q. What kind of comorbidities are we 24 talking about? 25 A. Depression, depressive disorders,</p>	<p style="text-align: right;">Page 93</p> <p>1 J. Drescher, M.D. 2 leads to both increased patient satisfaction 3 and better psychological adjustment. 4 Q. Are there any long-term studies 5 that demonstrate that? 6 A. Well, the Dutch have published a 7 study last year in pediatrics in which they 8 have been following young people who were 9 prepubescent with their gender dysphoria into 10 their twenties. So they have been following 11 the kids 15 or 20 years and their study shows 12 the kids are good outcome treatment. 13 Q. How would you rate the quality of 14 those studies? 15 A. I'm not sure what you mean by rate 16 the quality of the study. 17 Q. Well, in terms of their 18 reliability, how would you rate them? 19 A. Well, this is a small study. I 20 think it was about 55 patients. It's a 21 perspective study, which is a good study. It 22 was a study that measured the kid's function 23 at various ages around puberty, a few years 24 later when they started hormone treatment, 25 and after surgery. So I think it's a good</p>

<p style="text-align: right;">Page 94</p> <p>1 J. Drescher, M.D. 2 study. 3 Q. You said it was a relatively small 4 study? 5 A. 55 patients. 6 Q. Is that relatively small in your 7 estimation? 8 A. For this patient, this is a rare 9 condition. So for this patient population, 10 this is actually a large study. 11 Q. On page 12 of your report at the 12 top paragraph there, you reference a 2001 13 study from Sweden -- 14 A. Yes. 15 Q. -- concerning rates of regret 16 following gender transition which rates 17 applying for a reversal of legal gender 18 status following reassignment. Do you see 19 that? 20 A. Yes. 21 Q. Now, was this study based on a 22 valuation of Swedish citizens, people in 23 Sweden? 24 A. Yes. 25 Q. Are you familiar with any studies</p>	<p style="text-align: right;">Page 96</p> <p>1 J. Drescher, M.D. 2 A. Can you read the question back. 3 MR. GARCIA: Same objection. 4 (Record read.) 5 A. I think they could be seen as 6 helpful in understanding patients of the 7 United States. 8 Q. What do you mean by "helpful"? 9 A. I mean gender dysphoria, the 10 diagnostic that -- the Swedes question the 11 same diagnostic criteria used in the United 12 States for gender identity disorder. I think 13 they are studying the same kind of patient 14 population, so I think it would be an 15 applicable piece of information. 16 Q. Does gender dysphoria have social 17 context? 18 MR. GARCIA: Object to form. I 19 don't understand that question. 20 Q. Can the experience of gender 21 dysphoria by a person be influenced by the 22 social context in which they live? 23 A. Again, I'm not sure I understand 24 what you mean by the "social context." 25 Q. Well, the culture in which a person</p>
<p style="text-align: right;">Page 95</p> <p>1 J. Drescher, M.D. 2 that define regret differently? 3 A. No. 4 Q. Is it your understanding this was a 5 study testing for regret rates? 6 A. Yes. 7 Q. And do you know of any studies on 8 this issue after 2001? 9 A. This is -- this study is 2014. 10 Q. Sorry. How did I get 2001 out of 11 that. Right. Forget that question. 12 Are you aware of any other studies 13 that measure regret rates? 14 A. None that immediately come to mind, 15 no. 16 Q. Are you aware of any studies' 17 regret rates that were based on an evaluation 18 of persons in the United States as opposed to 19 Swedish people? 20 A. Not that I'm aware of. 21 Q. Are findings by a Swedish study of 22 Swedish people distinguishable from the 23 experience of persons with gender dysphoria 24 in the United States? 25 MR. GARCIA: Object to form.</p>	<p style="text-align: right;">Page 97</p> <p>1 J. Drescher, M.D. 2 lives, can that be an influence on gender 3 dysphoria if a person does have gender 4 dysphoria? 5 A. Can that be an influence you mean 6 by the distress or dysfunction of the person 7 for social context? 8 Q. Okay, let's start with that. 9 A. I don't know. 10 Q. So can the social context or the 11 cultural context by which a person lives 12 influence the severity of gender dysphoria? 13 A. I don't know the answer to that 14 question. My response is more like, you 15 know, when we try and create a psychiatric 16 diagnosis, we try and talk about what goes on 17 within the person. And while it's true that 18 it's possible that the people around that 19 person might have different responses to a 20 person, most of the symptoms for gender 21 dysphoria are based on the subjective 22 experience of the person whether they are 23 comfortable with their body. So I'm not sure 24 what -- how the social context would make a 25 difference in that regard in terms of making</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 J. Drescher, M.D. 2 a diagnosis. 3 Q. Are you familiar with the term 4 "minority stress"? 5 A. Yes. 6 Q. What does that mean? 7 A. Minority stress, there's a 8 literature that talks about the kinds of 9 experiences that people were members of ethnic 10 or sexual or racial minorities or religious 11 minorities experience day-to-day life. 12 Q. Do people with gender dysphoria 13 experience minority stress? 14 A. Some do, yes. 15 Q. And in the context of gender 16 dysphoria, how does minorities distress, what 17 is the relationship between those two? 18 A. Again, this is -- there are people 19 who suggest that minority stress is one of 20 the causes of increased depression and 21 anxiety and substance abuse in sexual and 22 gender minorities. But, again, that 23 literature is not robust. 24 Q. Do you know if there are any 25 differences in the incidence of minority</p>	<p style="text-align: right;">Page 100</p> <p>1 J. Drescher, M.D. 2 from the plantation. Some of the southern 3 doctors could give a diagnosis to slaves 4 trying to escape. That's a perfect example. 5 So the introduction of 6 homosexuality into the diagnostic manual was 7 always in a cultural context. The 8 introduction of sexual diagnosis paraphilias 9 have a cultural context expressing the 10 societies' disapproval of certain sexual 11 practices. So in many cases there is a 12 cultural context. 13 On the other hand, there are 14 diagnoses like schizophrenia whose prevalence 15 seems to cut across cultures. The prevalence 16 of schizophrenia, that seems to be the same 17 no matter what culture you look for it. 18 Sometimes we think of schizophrenia as a 19 diagnosis, is more of a brain disease than 20 some of the other psychiatric diagnoses. 21 Q. Does the diagnosis of gender 22 dysphoria occur in any general context? 23 A. Like I said, every diagnosis occurs 24 with the context. So, for example, the 25 inclusion in the DSM was because</p>
<p style="text-align: right;">Page 99</p> <p>1 J. Drescher, M.D. 2 stress in persons with gender dysphoria in 3 the United States as opposed to people in 4 Sweden? 5 A. I don't know that. 6 Q. Dr. Drescher, would you agree or 7 disagree with the statement "All psychiatric 8 diagnoses occur within a cultural context"? 9 A. Yes, I agree with that statement. 10 Q. Why do you agree with that 11 statement? 12 A. Well, a lot of my work has been not 13 so much in the gender diagnosis, but 14 homosexuality diagnosis area as resolved 15 around, you know, trying -- how we make the 16 psychiatric diagnosis we have are always 17 made -- always have some cultural aspect to 18 them because a psychiatrist is involved in 19 determining what constitute acceptable social 20 behavior versus unacceptable social behavior. 21 So the classic example of that 22 would be the diagnosis of Drapetomania, 23 D-R-A-P-E-T-O-M-A-N-I-A, which is a diagnosis 24 from the 19th Century given to slaves who had 25 a wanderlust and would repeatedly run away</p>	<p style="text-align: right;">Page 101</p> <p>1 J. Drescher, M.D. 2 psychiatrists were very interested and that's 3 how it found its way in the DSM-III in 1980. 4 And there's no reason to think that it's a 5 mental disorder any more than some other 6 disorder because we don't know what causes 7 it. And so the World Health Organization is 8 planning to take it out of the mental 9 disorder section and forthcoming revision of 10 an international classification of diseases 11 or ICD-11, capital I-C-D. 12 Q. Would there be any implications if 13 gender dysphoria was removed as a disorder? 14 A. Yes. 15 Q. What would that mean? 16 A. Well, there were calls during the 17 DSM-V recision process to remove the gender 18 diagnosis from the DSM the way homosexuality 19 was taken out in 1973 and the working group 20 did consider that question. It was the 21 consensus of the group and of the APA, the 22 removal of the diagnosis would deprive people 23 of a medical rationale for receiving 24 treatment. 25 In order to get any kind of medical</p>

<p style="text-align: right;">Page 102</p> <p>1 J. Drescher, M.D. 2 treatment, you need a code and the diagnosis 3 code to get the treatment. The APA had a 4 binary choice in or out. The ICD includes 5 all diagnoses, every diagnosis that your 6 doctors use when you go for a physical, 7 whatever, will include an ICD code. And so 8 the ICD has the option of moving it around 9 within its manual so you can retain the 10 diagnosis. So people can obtain access to 11 care, but it doesn't have to be a mental 12 disorder diagnosis. 13 Q. So do I understand your testimony 14 to be that the diagnosis of gender dysphoria 15 was retained in the DSM-V in order to allow 16 persons with GD to access medical care? 17 A. That was one of the rationales, 18 yes. 19 Q. Were there other rationales? 20 A. Well, there's an entity called 21 Gender Dysphoria that does exist, so it is a 22 condition. 23 Q. Dr. Drescher, do I understand that 24 you are now serving on the World Health 25 Organization's working group on sexual</p>	<p style="text-align: right;">Page 104</p> <p>1 J. Drescher, M.D. 2 way differ from the DSM-V in its diagnostic 3 approach to gender dysphoria? 4 MR. GARCIA: Object to form. 5 A. The recommendations which are on 6 the beta version is for diagnosis of gender 7 incongruence in childhood and gender 8 incongruence in adults similar to gender 9 dysphoria, but it would have a different 10 name. 11 Q. Is the difference in name only? 12 A. The ICD does not produce the same 13 kind of diagnostic criteria format that the 14 DSM uses, so it is a little bit different. 15 But essentially it would be parallel to the 16 DSM criteria, the DSM diagnosis. 17 Q. Am I correct that the DSM-V does 18 not make any recommendations in terms of 19 treatment for the diagnosis of gender 20 dysphoria? 21 A. That is correct. 22 Q. Is that true also for the ICD-11 -- 23 A. ICD-11, I'm not sure. 24 Q. Let me finish the question. 25 Is that true also for the ICD-11,</p>
<p style="text-align: right;">Page 103</p> <p>1 J. Drescher, M.D. 2 disorders and in sexual health? 3 A. Yes. 4 Q. What role are you playing? 5 A. I'm a member of the group. 6 Q. Are you engaged in any current 7 activities with respect to the World Health 8 Organization's work group? 9 A. Presently I am working with two 10 other members of the group on submitting a 11 paper for publication related to the work of 12 the work group. 13 Q. And the work with the work group is 14 what? 15 A. The work group is charged with 16 assessing the diagnoses that were in the 17 ICD-10 to decide which ones should stay and 18 which ones should leave and which ones should 19 be modified in making recommendations to the 20 World Health Organization about what should 21 appear in the ICD-11. 22 Q. When there is a new, you would call 23 it a version of the ICD set to be published? 24 A. There's a beta version online. 25 Q. Does the beta version online in any</p>	<p style="text-align: right;">Page 105</p> <p>1 J. Drescher, M.D. 2 that it doesn't have any treatment 3 recommendations for gender dysphoria? 4 A. I am not entirely sure what the 5 final format of ICD-11 would be. I know that 6 we -- one of the inhouse documents that we 7 prepared in terms of laying out what we 8 thought the criteria were for the diagnosis 9 is that -- in children is that it's a 10 specialized form of treatment and should only 11 be done by people who have knowledge of how 12 to do the treatment. Whether that will 13 actually appear in the ICD-11, I'm not sure. 14 Q. Am I correct there is an ICD-10? 15 A. Yes. 16 Q. Has the ICD-10 had any 17 recommendations for the treatment of gender 18 dysphoria? 19 A. No. 20 Q. This will be repetitive, but in 21 preparing your report for this case the 22 document that's been marked as Drescher 23 Exhibit B, am I correct that you reviewed the 24 WPATH standards of care? 25 A. I do.</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 J. Drescher, M.D.</p> <p>2 Q. You are familiar with the WPATH</p> <p>3 standards of care?</p> <p>4 A. I am.</p> <p>5 Q. Are you familiar with any other</p> <p>6 standards of care other than the WPATH</p> <p>7 standards of care for the treatment of gender</p> <p>8 dysphoria?</p> <p>9 A. I don't believe there are any other</p> <p>10 standards of care.</p> <p>11 Q. Are you familiar with an</p> <p>12 organization called Hayes, H-A-Y-E-S, Inc.?</p> <p>13 A. Only from having read the Hayes</p> <p>14 report as part of my preparation for this</p> <p>15 deposition.</p> <p>16 Q. Other than reviewing the Hayes</p> <p>17 report as part of your preparation for this</p> <p>18 deposition, as part of your preparation for</p> <p>19 this deposition other than that have you any</p> <p>20 experience at all with the Hayes reports?</p> <p>21 A. No.</p> <p>22 Q. Have you used the Hayes reports in</p> <p>23 your professional practice at all?</p> <p>24 A. No.</p> <p>25 Q. If you turn to page 13 of your</p>	<p style="text-align: right;">Page 108</p> <p>1 J. Drescher, M.D.</p> <p>2 during that time, has no other significant</p> <p>3 medical or mental health conditions that</p> <p>4 would be a contraindication to gender</p> <p>5 reassignment surgery and so has the capacity</p> <p>6 to make a full informed decision and consent</p> <p>7 to treatment.</p> <p>8 Those are all consistent with the</p> <p>9 WPATH standards of care. I don't think these</p> <p>10 were manufactured out of thin air. They seem</p> <p>11 to become -- these seem to be conditions</p> <p>12 within the WPATH standards of care for</p> <p>13 surgical treatment.</p> <p>14 Q. Okay. At the bottom of page 13 of</p> <p>15 your report where we were just reading, you</p> <p>16 state that -- it's the final paragraph, "The</p> <p>17 current DOH Medicaid policy."</p> <p>18 By that, are you referring to the</p> <p>19 Regulation 505.2(l)?</p> <p>20 A. Yes.</p> <p>21 Q. I will continue, "The current DOH</p> <p>22 Medicaid policy in its exclusion for</p> <p>23 procedures deemed cosmetic appears to</p> <p>24 connote a transgender individual's medical</p> <p>25 need for procedure to successfully complete a</p>
<p style="text-align: right;">Page 107</p> <p>1 J. Drescher, M.D.</p> <p>2 report, on page 13 about the third line down</p> <p>3 there is a sentence that begins "In some</p> <p>4 ways." Do you see that?</p> <p>5 A. Yes, in some ways.</p> <p>6 Q. I will read that, "In some ways</p> <p>7 Section 505.2(l) appears consistent with the</p> <p>8 treatment aims of the WPATH SOC."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean by that?</p> <p>12 A. Well, Section 505.2(l) which I have</p> <p>13 here in front of me. So if you look,</p> <p>14 original page 2 of Exhibit C, it allows for</p> <p>15 hormone treatment, allows for surgical</p> <p>16 treatment. It asks in 3-I that the</p> <p>17 individual has a persistent and</p> <p>18 well-documented case of gender dysphoria, has</p> <p>19 received hormone therapy appropriate to the</p> <p>20 person's gender goals. In the case of gender</p> <p>21 therapy, unless if the individual is</p> <p>22 otherwise unable to take hormones has lived</p> <p>23 for 12 months in a gender role congruent with</p> <p>24 the gender identity and received mental</p> <p>25 health counseling deemed mentally necessary</p>	<p style="text-align: right;">Page 109</p> <p>1 J. Drescher, M.D.</p> <p>2 gender transition with a non-transgender</p> <p>3 individual's vanity-based non-medically</p> <p>4 necessary desire to improve appearance. In</p> <p>5 so doing, Section 504.2(l) prohibits</p> <p>6 medically necessary care."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. What do you mean when you use the</p> <p>10 term "vanity-based non-medically necessary</p> <p>11 desire to improve appearance"?</p> <p>12 A. Well, I think in reading the</p> <p>13 regulation which calls these procedures</p> <p>14 cosmetic which I put in quotation marks in my</p> <p>15 statement, they are treating these activities</p> <p>16 as simply a wish for persons not wishing to</p> <p>17 improve their appearance for variety of</p> <p>18 reasons such as 19-year-old SIS gender girl</p> <p>19 who wants a nose job as opposed to procedures</p> <p>20 which are part of reducing gender dysphoria</p> <p>21 which is a medical condition requiring</p> <p>22 medical treatment. You know, I think my nose</p> <p>23 is too big is not currently considered a</p> <p>24 medical condition by most of the people.</p> <p>25 Although, there's a medical treatment</p>

28 (Pages 106 - 109)

<p style="text-align: right;">Page 110</p> <p>1 J. Drescher, M.D. 2 rhinoplasty someone deemed cosmetic and not 3 paid for by insurance because it's not deemed 4 medically necessary, but for a person's 5 choice. 6 Q. With respect to vanity-based 7 desires -- 8 A. That because there is a social 9 prejudice, again to the wish to have cosmetic 10 surgery because one wishes to improve one's 11 appearance presumably for purposes of looking 12 better, which is what I mean by vanity-based. 13 Q. Is there a cultural component to a 14 vanity-based desire to improve one's 15 appearance? 16 A. There could be, but there could be 17 a personal desire. Some people seek out 18 cosmetic surgery beyond what they actually 19 need. 20 Q. What do you mean seek beyond what 21 they need? 22 A. Well, I guess although I never 23 personally examined him before he died, 24 Michael Jackson comes to mind. He had small 25 cosmetic surgeries in the late '80s and '90s</p>	<p style="text-align: right;">Page 112</p> <p>1 J. Drescher, M.D. 2 Q. To the extent that a transgender 3 individual were to seek out a procedure that 4 was solely to improve their appearance, would 5 you consider such a procedure medically 6 necessary? 7 MR. GARCIA: Object to form. 8 A. I would say that that would be -- 9 you would have to look at that on an 10 individual basis. You know, it would -- I 11 have not personally had such a case, so I 12 don't know what I would do in such a 13 situation. But I would imagine it would 14 require the individuals' input from the 15 treating physicians because they will have 16 opinions on that. 17 Q. But if the conclusion was that the 18 transgender person was seeking a cosmetic 19 procedure simply because they wanted to 20 improve their appearance, would you consider 21 that treatment then to be medically 22 necessary? 23 MR. GARCIA: Object to form. 24 A. I'm not sure I understand the 25 question.</p>
<p style="text-align: right;">Page 111</p> <p>1 J. Drescher, M.D. 2 to change his appearance and then he 3 continued to have plastic surgeries. So to 4 outside observers it was -- looked like he 5 has relatively bizarre facial skin. 6 Q. So do I understand your testimony 7 to say that with respect you use the example 8 of a SIS gender girl wanting a nose job, 9 would you consider that a vanity-based 10 desire? 11 A. Often it may be. 12 Q. Can that have a cultural component, 13 to want that type of vanity-based procedure? 14 A. It could. 15 MR. GARCIA: Object to form. 16 Q. Is that true in the United States, 17 that people get vanity-based surgeries based 18 on cultural? 19 A. I am not an expert on why people 20 get cosmetic surgeries. 21 Q. You use the example of a SIS gender 22 girl who wanted a nose job. Are transgender 23 individuals immune to vanity-based desires to 24 improve their appearance? 25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 J. Drescher, M.D. 2 Q. Let's assume that you have a 3 transgender person who has come in and after 4 an assessment by various treating 5 professionals, the determination was made 6 that the reason they wanted a rhinoplasty to 7 use your example of SIS gender girl who 8 wanted it for vanity-based reasons, if the 9 determination was made that the transgender 10 person wanted the rhinoplastic only to 11 improve their appearance, but not to treat 12 gender dysphoria per se. 13 A. If a treatment -- if a treatment 14 would reduce gender dysphoria, then I would 15 consider it medically necessary. If the 16 treatment seemed unrelated to gender 17 dysphoria, then probably wouldn't be by 18 insurance terms medically necessary. 19 Q. So would a transgender person who 20 came in and had gender dysphoria but the 21 determination was made that the procedure 22 they were looking for, rhinoplasty or some of 23 the other procedures listed in the regulation 24 at 505.2(l), if they were purely to enhance 25 their appearance, to improve their</p>

<p style="text-align: right;">Page 114</p> <p>1 J. Drescher, M.D. 2 appearance, would you consider that medically 3 necessary? 4 MR. GARCIA: Object to form. 5 A. Well, again, we are talking 6 hypotheticals and I think it's more 7 complicated than that. I think you really 8 have to be able to, you know, sort out 9 whether or how much it related to gender 10 dysphoria or not. And since I have never 11 seen such a case like that before, I'm 12 reluctant to say what I would do in that 13 situation. 14 Q. Is it fair to say that it is 15 possible as with a SIS gender person, a 16 transgender person could be motivated to get 17 a quote/unquote cosmetic procedure for 18 vanity-based reasons? 19 A. I would say it is possible, but I 20 think that is not a reason, significant 21 justification to have to have a blanket for 22 the procedures without input from treating 23 practitioners. 24 Q. So your answer to my question is 25 yes?</p>	<p style="text-align: right;">Page 116</p> <p>1 J. Drescher, M.D. 2 A. I don't know that there's a 3 specific procedure for doing that. I would 4 assume that if a person came up with such a 5 situation -- I have never come up against 6 such a situation -- it would be a question of 7 knowing the patient, you know, knowing 8 something about their gender dysphoria over 9 the course of treatment, having some grasp of 10 whether they are subjectively able to -- you 11 know, how they think about themselves as a 12 person, whether they like themselves as a 13 person. It's complicated. I don't think 14 there's a particular one-answer-fits-all way 15 to do that. 16 Q. So if I understand your testimony, 17 to be to make that determination as to 18 whether it's medically necessary or a 19 vanity-based desire on the part of the person 20 is a complicated issue? 21 A. I would say it's a complicated 22 issue, yes. 23 Q. It's not easily resolved? 24 A. As I said, I have never come across 25 it so I've never had to sort that out. What</p>
<p style="text-align: right;">Page 115</p> <p>1 J. Drescher, M.D. 2 A. It is theoretically possible. 3 Q. For a transgender person to want a 4 quote/unquote cosmetic procedure? And when I 5 am talking about cosmetic procedures, the 6 procedures listed in the regulation at 7 paragraph 4, Roman V, just using cosmetic 8 procedure as shorthand. 9 A. We are talking about a rhinoplasty. 10 I don't think, for example, a male-to-female 11 transsexual person who wants electrolysis is 12 simply looking for a vanity-based procedure. 13 Q. But is it beyond possibility that a 14 transgender person would seek that type of 15 procedure solely for a vanity-based reason? 16 A. Anything is possible. 17 Q. But is that possible? 18 A. Anything is possible. 19 Q. How does a medical practitioner who 20 is treating a person with gender dysphoria 21 differentiate between a patient's 22 vanity-based desire to improve their 23 appearance and a procedure that is medically 24 necessary to alleviate the suffering caused 25 by gender dysphoria?</p>	<p style="text-align: right;">Page 117</p> <p>1 J. Drescher, M.D. 2 I'm referring to in my expert report is a 3 decision of people who are going to pay for 4 the services, trying to sort out what they 5 want to pay for and what they don't want to 6 pay for. And sometimes the way these 7 decisions get made are not as black and white 8 as the regulation that says absolutely no. 9 Q. If you look at Drescher Exhibit C 10 and we are looking at the Regulation 505.2(1) 11 and you were looking at paragraph 4, Roman V, 12 correct? 13 A. Yes. 14 Q. And paragraph 4-V, I will read it 15 without looking at Roman I-2, 3 and 4, okay, 16 because we are focusing on Roman V. If I 17 read that and follow along with me at 18 paragraph 4, "Payment will not be made for 19 the following services and procedures:" 20 Jump to Roman V, "Cosmetic surgery 21 services and procedures including, but not 22 limited to" and then there's a list, correct, 23 of procedures? So am I reading that 24 correctly? 25 A. Yes.</p>

<p style="text-align: right;">Page 118</p> <p>1 J. Drescher, M.D. 2 Q. And then if you move down below 3 that there is a paragraph V, is there not? 4 A. Yes. 5 Q. Do you see that? 6 A. Yes. 7 Q. I'm going to read that. Paragraph 8 V reads, "For purposes of this subdivision, 9 cosmetic surgery services and procedure 10 refers to anything at solely improving that 11 individual's appearance." 12 Do you see that? 13 A. Yes. 14 Q. In preparing your expert report, 15 did you review paragraph V that I just read? 16 A. Yes. 17 Q. And did you reach any conclusion 18 what that text means? 19 A. Yes, that's the regulation. I 20 think my last paragraph in my direct report 21 directly address this is interpretation of 22 the surgical procedures for transgender 23 patients as being cosmetic, meaning simply to 24 improve appearance unrelated to the issue how 25 these procedures actually are about reducing</p>	<p style="text-align: right;">Page 120</p> <p>1 J. Drescher, M.D. 2 forming his opinion for this, for his 3 expert report. He did make some 4 conclusions about paragraph 4-V and I 5 want to know what his opinion is with 6 respect to paragraph V. 7 MR. GARCIA: Same objection. 8 Q. Would you like the question read 9 back, Dr. Drescher? 10 A. Yes. 11 (Record read.) 12 A. So my reading of the regulation was 13 that the listing of the role of the 14 procedures in paragraph Roman numeral V was 15 that they were defining all of those 16 procedures as solely directed as improving 17 the individual's appearance, that that was 18 the definition. First they called them 19 cosmetic. They call them cosmetic and they 20 say we are not doing anything cosmetic. 21 That's how I read the regulation. 22 Q. What does paragraph V mean when 23 those procedures are solely directed at 24 improving individual's appearance? 25 MR. GARCIA: Object to form.</p>
<p style="text-align: right;">Page 119</p> <p>1 J. Drescher, M.D. 2 gender dysphoria. 3 In reality, improving appearance 4 and reducing gender dysphoria are often quite 5 linked to each other through these kind of 6 interventions. This report tries to say this 7 is simply about improving the appearance 8 without a context of gender dysphoria. 9 Q. Looking at paragraph V of the 10 regulation when it says that for purposes of 11 this subdivision, cosmetic surgery and 12 procedures refers to anything solely directed 13 as improving an individual's appearance -- 14 A. Right, this is an opinion of the 15 regulation. 16 Q. Well, is it saying that if one of 17 those procedures that's listed there in Roman 18 V and it's A through M, if one of those 19 procedures is for something other than solely 20 directed as improving the person's appearance 21 that there might be coverage for those 22 procedures? 23 MR. GARCIA: Object to form. Calls 24 for a legal conclusion. 25 MR. GASIOR: He referred to this in</p>	<p style="text-align: right;">Page 121</p> <p>1 J. Drescher, M.D. 2 A. As I said, I read it that they are 3 referring to these procedures as cosmetic and 4 they are not going to provide for those 5 services. 6 Q. We may come back to that. Let me 7 mark it. 8 MR. GASIOR: We will mark this 9 Drescher Exhibit E. 10 (Document entitled "Medicaid 11 Update" marked Drescher Exhibit E for 12 identification, as of this date.) 13 Q. Dr. Drescher, the court reporter 14 has handed you what is marked Drescher 15 Exhibit E, the first page of which is 16 entitled "Medicaid Update." It has the New 17 York State Department of Health I will call 18 it letterhead at the top of the page dated 19 March 2015. 20 Dr. Drescher, is this one of the 21 documents that you reviewed as part of your 22 preparation of your expert report, Drescher 23 Exhibit B? 24 A. Yes. 25 Q. Is there a particular part of the</p>

<p style="text-align: right;">Page 122</p> <p>1 J. Drescher, M.D. 2 document that you referred to in preparing 3 your report? 4 A. Yes. On page 15, "Medicaid Updates 5 Regulation." 6 Q. So page -- 7 A. -- 15. 8 Q. Am I correct that the portion you 9 are referring to on page 15 says "New York 10 State Medicaid Updates Regulations"? 11 A. Yes. 12 Q. And then the paragraph begins, "In 13 response to litigation filed in federal court 14 by several organizations, the Department of 15 Health revised its regulations to repeal the 16 existing prohibition on Medicaid coverage for 17 transition-related transgender-related care 18 and services." 19 Is that correct? 20 A. Yes. 21 Q. Was there some other particular 22 part of this update that you looked at? 23 A. Yes. Original page 16 of the 24 update says in the middle of the page that, 25 "Payment will not be made for the following</p>	<p style="text-align: right;">Page 124</p> <p>1 J. Drescher, M.D. 2 AFTERNOON SESSION 3 August 11, 2015 4 1:44 p.m. 5 (Document entitled "Medicaid 6 Update" dated June, 2015 marked Drescher 7 Exhibit F for identification, as of this 8 date.) 9 Q. Dr. Drescher, back on the record. 10 The court reporter has handed you what has 11 been marked as Drescher Exhibit F. It is a 12 New York State Department of Health document 13 titled on the first page "Medicaid Update," 14 the date June, 2015. 15 Do you see that document? 16 A. Yes. 17 Q. Have you seen this document before, 18 to your recollection? 19 A. Yes. 20 Q. When was the first time you saw 21 this? 22 A. I saw this on Friday. 23 Q. Turn with me to page 7 of Drescher 24 Exhibit F. And I don't know if you still 25 have Drescher Exhibit E with you.</p>
<p style="text-align: right;">Page 123</p> <p>1 J. Drescher, M.D. 2 services." And then under that paragraph it 3 lists what it calls cosmetic surgery in the 4 same procedures that are listed in the 5 regulation. 6 MR. GARCIA: I would like to remind 7 Dr. Drescher to allow Mr. Gasior to 8 finish his questions. 9 MR. GASIOR: Can we mark this 10 as -- 11 THE WITNESS: After this we need to 12 break. 13 MR. GARCIA: This would be a good 14 time to take a break so we can make 15 copies. 16 (Recess taken.) 17 MR. LANDSMAN: Let's take lunch. 18 (Luncheon recess: 12:52 p.m.) 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 125</p> <p>1 J. Drescher, M.D. 2 A. Yes. 3 Q. If you could, pull page 7 of 4 Drescher Exhibit F next to page 16 of 5 Drescher Exhibit E. That might help with the 6 questions I'm about to ask. 7 Looking at Drescher Exhibit F on 8 page 7 do you see, "Payment will not be made 9 for the following services"? 10 A. Um-hum. Yes. 11 Q. And would you agree with me that 12 there is a difference between the text that 13 is in Drescher Exhibit F and Drescher 14 Exhibit E? 15 A. Yes, there is a difference. 16 Q. In Drescher Exhibit F there is a 17 sentence that begins, "Payment will not be 18 made for." Do you see that? 19 A. Yes. 20 Q. I will read from that, "Payment 21 will not be made for any procedures that are 22 performed solely for the purpose of improving 23 individual's appearance. The following 24 procedures will also be presumed to be 25 performed solely for the purposes of</p>

<p style="text-align: right;">Page 126</p> <p>1 J. Drescher, M.D. 2 improving appearance and not be covered 3 unless justification of medical necessity is 4 provided and prior consent is obtained." 5 What do you understand Defendants' 6 Exhibit F June, 2015 to be? 7 MR. GARCIA: Objection. 8 A. It appears as if they have the June 9 guidance which made -- which said they would 10 not pay for services, said there might be an 11 exception for payment. 12 MR. GASIOR: Can you read the 13 answer back. 14 (Record read.) 15 Q. What did you mean "there might be 16 an exception"? 17 A. It reads that -- it says, "The 18 following procedures will be presumed to be 19 performed solely for the purpose of improving 20 appearance and will not be covered unless 21 justification of medical necessity is 22 provided and prior authorization is 23 received." 24 Q. Having now seen the June Medicaid 25 guidance, do you still conclude as you do at</p>	<p style="text-align: right;">Page 128</p> <p>1 J. Drescher, M.D. 2 coverage through Medicaid? 3 A. No. 4 Q. So let me explore that then. What 5 familiarity do you have with the Medicaid 6 program as it's administered in New York 7 State? 8 A. I work in SUNY Downstate, there as 9 a resident for three years and as an 10 attending psychiatrist for nine years. And 11 many of the patients were Medicaid patients, 12 but I -- but the clinical faculty is 13 completely detached from the Medicaid billing 14 and activities of that sort. 15 Q. So do you have any familiarity with 16 whether procedures performed on behalf of 17 persons who are receiving Medicaid in 18 New York State must be approved for medical 19 necessity? 20 MR. GARCIA: Object to form. 21 A. My practice in that area was just 22 before managed care of medical practice began 23 in the '90s. I left the hospital system in 24 '93, so there was not a lot of that. But I 25 recall, for example, I used to perform</p>
<p style="text-align: right;">Page 127</p> <p>1 J. Drescher, M.D. 2 the bottom of your report on page 13 that the 3 new regulation excludes cosmetic procedures? 4 MR. GARCIA: Objection. 5 A. Well, this is not a change in the 6 regulation. This is just a change in the 7 guidance regulation. Still say they will not 8 pay for it. 9 Q. Would the June guidance suggest to 10 you that they will provide coverage for these 11 procedures? 12 MR. GARCIA: Objection. 13 A. It's suggestive of the possibility. 14 But since it says -- it's almost like you are 15 saying you are guilty until proven otherwise, 16 because it will not be paid for unless you 17 jump through a few hoops to do that. 18 Q. Is it necessary in some 19 circumstances for individuals who are 20 receiving Medicaid to jump through some 21 hoops, to use your terminology? 22 MR. GARCIA: Objection. 23 A. I don't know that much about the 24 Medicaid system. 25 Q. Do any of your patients receive</p>	<p style="text-align: right;">Page 129</p> <p>1 J. Drescher, M.D. 2 electroconvulsive therapy on hospitalized 3 patients who had Medicaid and we did not 4 require prior approval to get that treatment. 5 Which is very expensive, by the way. 6 Q. Are you familiar with any 7 procedures that are afforded by Medicaid in 8 New York State which require prior approval, 9 prior authorization? 10 A. I think I know that some 11 medications can now be prescribed without 12 prior authorization. That's about all I 13 know. 14 Q. Are you familiar with any 15 procedures or services whereas a precondition 16 to receiving treatment under Medicaid in 17 New York State, that the person seeking the 18 treatment or their provider must show there 19 is a medical necessity for that treatment? 20 A. No. 21 Q. If you will please turn to page 11 22 of your report, Dr. Drescher, Exhibit B. And 23 in the first full paragraph, the one starting 24 "The diagnosis of GD," do you see that? 25 A. Yes.</p>

<p style="text-align: right;">Page 130</p> <p>1 J. Drescher, M.D.</p> <p>2 Q. Let me read that, "The diagnosis of</p> <p>3 GD involves how an individual feeling about</p> <p>4 her own gender and how others perceive her</p> <p>5 gender."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. What do you mean by that statement?</p> <p>9 A. Well, the symptom, the criterion A</p> <p>10 if you look at on page 9, I think we have the</p> <p>11 DSM criteria.</p> <p>12 MR. GARCIA: May I direct him.</p> <p>13 Page 6.</p> <p>14 A. Page 6 of Drescher Exhibit B, my</p> <p>15 report.</p> <p>16 Q. Got it.</p> <p>17 So if you look on page 6, criterion</p> <p>18 A, there are six DSM criteria. And if you</p> <p>19 look at criteria 1, 2, 3, 4 and 6, five of</p> <p>20 the six criteria all are about the patient's</p> <p>21 subjective experience of their gender in</p> <p>22 various relationship to their body.</p> <p>23 A. Criteria 5 is a little bit</p> <p>24 different because it's about the person's</p> <p>25 relationship to others and it's a strong</p>	<p style="text-align: right;">Page 132</p> <p>1 J. Drescher, M.D.</p> <p>2 that read back.</p> <p>3 MR. GASIOR: Let me break it up</p> <p>4 into two parts. That might make it a</p> <p>5 less opaque.</p> <p>6 Q. By that statement that we just read</p> <p>7 on page 11, do you mean that the diagnosis of</p> <p>8 gender dysphoria in part depends on how other</p> <p>9 individuals perceive the person with gender</p> <p>10 dysphoria?</p> <p>11 A. Yes, how other people perceive the</p> <p>12 individual has a strong impact if the person</p> <p>13 have symptom number 5.</p> <p>14 Q. Does it also involve or is it the</p> <p>15 same thing -- maybe I'm inflating the two,</p> <p>16 but does that diagnosis also depend how a</p> <p>17 patient feels about how other people perceive</p> <p>18 them?</p> <p>19 A. It's very complicated. I'm not</p> <p>20 sure you can tease it out so easily. To be</p> <p>21 treated as the other gender is an interactive</p> <p>22 process with others. And there are many</p> <p>23 subtleties to the process how one is treated</p> <p>24 as a gender person.</p> <p>25 You walk -- you know, you walk into</p>
<p style="text-align: right;">Page 131</p> <p>1 J. Drescher, M.D.</p> <p>2 desire to be treated as the other gender.</p> <p>3 And that particular symptom, for example, is</p> <p>4 highly dependent on appearance for the most</p> <p>5 part.</p> <p>6 So the individual's ability -- as I</p> <p>7 said, how others perceive her gender, you</p> <p>8 know, can she go into the appropriate</p> <p>9 restroom, gender restroom without any</p> <p>10 incident or any kind of problem having to do</p> <p>11 with appearance. Because that can be a</p> <p>12 problem for many transgender people whether</p> <p>13 they are using public restrooms, whether</p> <p>14 somebody will object. People often object if</p> <p>15 you are walking in the restroom in the</p> <p>16 airport. People might say you are going into</p> <p>17 the wrong room or if you are in the room</p> <p>18 people might say something more strongly.</p> <p>19 That's what I mean.</p> <p>20 Q. In that sentence, do you mean that</p> <p>21 the diagnosis of gender dysphoria depends in</p> <p>22 part how other individuals perceive the</p> <p>23 patient or does it depend how the patient</p> <p>24 feels about how other persons perceive them?</p> <p>25 MR. GARCIA: Object. May I have</p>	<p style="text-align: right;">Page 133</p> <p>1 J. Drescher, M.D.</p> <p>2 a department store to buy some clothing, you</p> <p>3 know, and, you know, you see a clerk and you</p> <p>4 say I want -- I'm looking to buy some shoes.</p> <p>5 That clerk will automatically direct you to</p> <p>6 the men's department without thinking about</p> <p>7 it. But if you were more gender ambiguous,</p> <p>8 that person might not know what department to</p> <p>9 direct you to because there's women's</p> <p>10 department and men's department.</p> <p>11 These kind of subtle activities go</p> <p>12 on all the time and this is the kind of</p> <p>13 subtly that people with gender dysphoria</p> <p>14 people trying to pass to the other gender are</p> <p>15 always aware of, you know. It's complicated</p> <p>16 because if you are SIS gender, you don't</p> <p>17 think about these things at all because you</p> <p>18 take your gender performance for granted,</p> <p>19 which these patients do not.</p> <p>20 Q. Is there any other psychiatric</p> <p>21 diagnosis where the diagnosis depends how</p> <p>22 people perceive that person?</p> <p>23 MR. GARCIA: Objection.</p> <p>24 A. Well, there are some diagnoses in</p> <p>25 which, for example, the diagnosis of</p>

<p style="text-align: right;">Page 134</p> <p>1 J. Drescher, M.D. 2 attention deficit hyperactivity in children 3 is based on information provided by the 4 teachers in the child's school. 5 Q. Maybe I didn't ask the question 6 right. I'm not talking so much about 7 information that's conveyed to help assessing 8 whether the diagnosis has been made. 9 As I understood your answer, with 10 respect to gender identity involves how 11 others perceive their gender. So that's part 12 of the diagnosis of gender dysphoria, how 13 other people are perceiving that. 14 Is there another diagnosis that 15 also has that component of those diagnoses 16 being based on how that person is perceived 17 by other people? 18 A. I do believe the criteria for the 19 children's dysphoria are, in fact, based upon 20 adult perceptions of the child which go into 21 the school reports of difficulty the child 22 doesn't report. I'm having trouble 23 concentrating, the teacher reports the child 24 can't keep still and do their homework. And 25 that is treated as a diagnostic criteria.</p>	<p style="text-align: right;">Page 136</p> <p>1 J. Drescher, M.D. 2 Q. So my question then is: Are there 3 other diagnoses where the diagnosis is based 4 on that person's perception of how they are 5 being viewed by other people? 6 A. Not exactly in the same way, no. 7 Q. In some other? 8 A. The closest I can come to where 9 another person's perception is part of making 10 the diagnosis is the example I gave you. 11 This is a very unique diagnosis, gender 12 dysphoria. 13 Q. If I refer to and if I speak about 14 a gender-confirming procedure part of the 15 therapeutic program, what does that mean to 16 you? 17 A. Gender conforming is a term that 18 comes out of the trans-community itself. The 19 notion of transgenderism as written about by 20 SIS gender people who are mostly the people 21 who began early writing and research on 22 treating transgender people is that the 23 normal state of affairs is that one's body 24 and one's gender should align automatically. 25 And if they didn't, what you were doing was</p>
<p style="text-align: right;">Page 135</p> <p>1 J. Drescher, M.D. 2 Q. Is that part of the diagnosis based 3 on the child knowing that they are being 4 evaluated? 5 A. I don't understand the question. 6 Q. It seems to me like in your last 7 answer you said that part of the diagnosis 8 for one of those childhood diagnoses, you 9 were saying it's based on the teacher making 10 a report -- 11 A. Clinician. 12 Q. -- to the clinician saying, this is 13 what I'm observing? 14 A. The clinician will have access to 15 some information that comes from a teacher, 16 which would fit -- which would meet the 17 diagnostic criteria of can't keep still in 18 school or doesn't pay attention in school or 19 behavioral problems in school. 20 Q. As I understood your testimony 21 about gender dysphoria, part of the dysphoria 22 is caused by the person's perception how they 23 are being viewed by other people; is that 24 correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 137</p> <p>1 J. Drescher, M.D. 2 changing sexes for example. 3 So gender reassignment surgery used 4 to be called sex reassignment surgery. The 5 sex you were born into was referred to as the 6 biological sex, meaning it was thought to be 7 the natural sex. With a growing transgender 8 community for whom their final gender after 9 transition feels to them as the correct 10 gender, gender reassignment surgery is 11 sometimes called gender confirmation surgery 12 for example. At the end, they are who they 13 actually feel themselves to be. So that kind 14 of language is all about from a transgender 15 subjectivity a normalization of their 16 experience. At the end it was not that I was 17 ever a boy and now I'm a girl or man and I'm 18 a woman. What they are saying, I have always 19 been a woman and now I have confirmation 20 thanks to treatment of who I really am. 21 Q. So then to use that term 22 "gender-confirming procedure" in your 23 opinion, is the necessity of a 24 gender-confirming procedure whether the 25 person objectively is able to pass or whether</p>

<p style="text-align: right;">Page 138</p> <p>1 J. Drescher, M.D. 2 they subjectively believe they are able to 3 pass as the desired gender? 4 MR. GARCIA: Object to form. 5 A. I didn't fully understand. 6 Q. That's a rough one, I know. I have 7 been working on it a while. 8 A. Welcome to my world. 9 Q. Let me see if I can take a stab at 10 that again. In talking about the necessity 11 of a gender-confirming procedure, is the 12 necessity for that -- strike that. I will 13 start again. 14 Maybe the better way to put this: 15 Should the goal of a gender-conforming 16 procedure be to allow the person to 17 objectively pass as the desired gender or is 18 it whether the person should subjectively 19 believe they are passing? 20 A. The answer to that is that 21 the -- whatever the procedure is, ideally it 22 should reduce the person's gender dysphoria. 23 Since it's possible for some of that to be 24 subjective and some of that to be objective, 25 again, it would have to be individualized for</p>	<p style="text-align: right;">Page 140</p> <p>1 J. Drescher, M.D. 2 patient. 3 Q. In considering the types of 4 procedures that are listed in the regulation 5 at Paragraph 4-V, I hesitate to use cosmetic 6 procedure, in considering those procedures -- 7 A. They are non-approved procedures. 8 Q. No, let's call them potentially 9 approved. 10 If a person is a person who is 11 transgender receiving some of these 12 procedures, is there a point at which the 13 procedures might become more about 14 idealization of the body rather than insuring 15 that that person has been able to no longer 16 have a dysphoria with respect to their body? 17 MR. GARCIA: Objection. 18 A. Hypothetically anything is 19 possible. I have never seen such a patient, 20 but hypothetically anything is possible. 21 Q. How many patients you treated have 22 received some of the procedures listed in the 23 Regulation 4-V? 24 A. That's a good question. Maybe 25 about 40 to 50 percent, but I would add that</p>
<p style="text-align: right;">Page 139</p> <p>1 J. Drescher, M.D. 2 the patient. 3 Q. How does one assess the objective 4 success of a gender-confirming procedure from 5 an individual? 6 A. That's a very difficult question to 7 answer. I'm not sure I know the answer 8 objectively. 9 Q. Is it part of what a clinician does 10 who is treating gender dysphoric people to 11 try and assess whether the person is passing 12 objectively? 13 A. In general when you are treating a 14 patient who has gender dysphoria and they are 15 undergoing procedures or undergoing 16 procedures to affirm the gender they feel 17 themselves to be, you can see whether -- what 18 usually happens is that their levels of 19 distress of anxiety, of depression and their 20 level will diminish and their levels of 21 function may normalize or improve. Those are 22 some of the objective criteria you might use, 23 because basically one is always assessing in 24 some clinical way, you know, the mood of the 25 patient and as well as the function of the</p>	<p style="text-align: right;">Page 141</p> <p>1 J. Drescher, M.D. 2 my practice skews toward a number of patients 3 who do not seek medical transition. 4 Q. What do you mean "medical 5 transition"? 6 A. Meaning they are people that have 7 not sought hormones or any kind of medical 8 treatment for their gender dysphoria. 9 Q. So when they are seeing you, what 10 type of treatment are they seeking? 11 A. Just psychological treatments. 12 Q. So run that percentage past me 13 again. What percentage of the people you are 14 seeing don't seek either a surgical -- 15 A. 50 to 60 percent. 16 Q. Let me finish the question so we 17 can get it down. 18 What percentage of the people you 19 see do not seek either a surgical or 20 drug-related therapy? 21 A. 50 to 60 percent. 22 Q. Do you know whether the percentages 23 that you are seeing are reflective of other 24 practitioners treating people with gender 25 dysphoria?</p>

<p style="text-align: right;">Page 142</p> <p>1 J. Drescher, M.D. 2 MR. GARCIA: Objection. 3 A. I don't know. 4 Q. Do you know of any studies or 5 literature that addressed that issue? 6 A. No. 7 Q. If you look at your report, 8 Drescher Exhibit B, on page 11 at the bottom 9 of the page there is a large block 10 quote -- am I correct that is a quote from 11 the WPATH? Bottom of the page, your report 12 at page 11 the last full paragraph it says, 13 "In light of such clinical situations, the 14 WPATH SOC devotes a section of the question 15 of what constitutes 'reconstructive versus 16 aesthetic surgery' and reads as follows:" 17 Do you see that? 18 A. Yes. 19 Q. If you look at the quote that 20 follows, am I correct this is a quote from 21 the standard of care? 22 A. Yes. 23 Q. The second full paragraph there it 24 says, "Unfortunately, in the field of plastic 25 and reconstructive surgery (both in general</p>	<p style="text-align: right;">Page 144</p> <p>1 J. Drescher, M.D. 2 treatment of gender dysphoria? 3 A. I'm not sure they are talking about 4 gender dysphoria in terms of reconstruction. 5 They are talking about things like surgery 6 for mastectomies where they reconstruct the 7 breasts after double mastectomy or perhaps 8 the kind of surgery, plastic surgery done for 9 people who are burn victims who have to have 10 a lot of plastic surgery after they are 11 medically stable after they have been burned, 12 but they continue to have 13 plastic/reconstructive treatments to try and 14 recreate something similar to what they used 15 to look like before their burns. I think 16 that's how they mean reconstructive here. 17 Q. Does that term "reconstructive" 18 have application to the procedures performed 19 for transgender people as part of the care? 20 A. I think from a transgender 21 perspective, yes, just in the sense we talk 22 about the term "gender confirmation surgery" 23 for the transgender. The end gender is the 24 reconstruction of who they really are. 25 Q. The quote I read from the standard</p>
<p style="text-align: right;">Page 143</p> <p>1 J. Drescher, M.D. 2 and specifically for gender-related 3 surgeries) there is no clear distinction 4 between what is clearly reconstructive and 5 purely cosmetic. Most plastic surgery 6 procedures actually are a mixture of both 7 reconstructive and cosmetic components." 8 Do you agree with that statement? 9 A. I am not sure. I included the 10 quote from WPATH because I think it makes a 11 case for the muddiness of terms when it comes 12 to what is cosmetic versus reconstructive. 13 I'm not sure that I -- most surgeries are 14 cosmetic. Certainly there is a muddiness 15 that has to be teased out on a one-by-one 16 basis. 17 Q. The WPATH uses the term 18 "reconstructive" and a contrast with what is 19 purely cosmetic. Do you see that -- 20 A. Yes. 21 Q. -- in that quote I just read? 22 A. Um-hum. 23 Q. When the standards of care uses 24 that term "reconstructive," what is your 25 understanding of that term in the context of</p>	<p style="text-align: right;">Page 145</p> <p>1 J. Drescher, M.D. 2 of care used the term "plastic surgery." 3 Would you apply that term "plastic surgery" 4 to those procedures listed in the regulation 5 under paragraph 4, Roman V? 6 A. Well, some of the procedures listed 7 in 4, Roman numeral V are plastic surgery 8 procedures. Prior drugs for hair growth is 9 not a plastic surgery procedure. Voice 10 therapy is not a plastic surgery procedure. 11 Q. Some of them listed in 4, Roman V, 12 5 plastic -- 13 A. Yes. 14 Q. Let me jump down to the next 15 paragraph in the quote from the standards of 16 care, the one that begins "While most 17 professionals." Do you see that? 18 A. Yes. 19 Q. Third paragraph of the quote from 20 the standards of care -- 21 A. Yes. 22 Q. -- let me read that. "While most 23 professionals agree that genital surgery and 24 mastectomy cannot be considered purely 25 cosmetic, opinions diverge as to what degree</p>

<p style="text-align: right;">Page 146</p> <p>1 J. Drescher, M.D. 2 other surgical procedures (breast 3 augmentation, facial feminization surgery) 4 can be considered purely reconstructive." 5 Do you see that? 6 A. Yes. 7 Q. Do you agree with that statement? 8 A. I don't know the answer. I don't 9 know whether opinions diverge or not. That 10 might mean opinions diverge in WPATH, but I 11 don't know what it means. 12 Q. Do you understand that section that 13 I just read to be referring to the procedures 14 referred to there as being performed in 15 conjunction with treatment of gender 16 dysphoria? 17 A. I didn't understand the question. 18 Q. Is what they are talking about 19 there when they are saying -- 20 A. "There" being where? 21 Q. The sentence I just read, that what 22 they are talking about there is, that these 23 surgical procedures are being considered in 24 the context of gender dysphoria? 25 MR. GARCIA: Objection.</p>	<p style="text-align: right;">Page 148</p> <p>1 J. Drescher, M.D. 2 including this piece is to just lay out some 3 of the complexity that's involved in trying 4 to make a determination, that it's not always 5 a black and white issue. 6 Q. When you are talking about it's not 7 a black or white issue, is that as to whether 8 we are talking to treatment for gender 9 dysphoria as cosmetic or it might be 10 considered as reconstructive? 11 A. That's what I'm talking about. 12 Q. When we are talking about a 13 procedure that's performed to treat gender 14 dysphoria, that's in the context of one of 15 the plastic procedures that we saw in 16 Roman -- in paragraph 4, Roman V of the 17 regulation. 18 If, for example, we are talking 19 about an -- I'm looking at 4 Roman D-V, 20 cheek, chin, nose or peck, do you see that? 21 A. Yes. 22 Q. With respect to that procedure, in 23 the context of someone who does not have 24 gender dysphoria would you agree that that 25 procedure could be done for cosmetic purposes</p>
<p style="text-align: right;">Page 147</p> <p>1 J. Drescher, M.D. 2 MR. GASIOR: Let's scrap it. 3 Q. In that sentence that I just read 4 is that discussion of whether opinions 5 diverge as to what degree surgical procedures 6 like breast augmentation or facial 7 feminization can be considered purely 8 reconstructive. 9 Do you understand that sentence to 10 be talking about gender treatment for 11 treatment for gender dysphoria? 12 A. Yes, I believe the sentence is 13 addressing treatment for gender dysphoria. 14 Q. Do you have any understanding then 15 with respect to that divergence of opinion as 16 to this trying to determine to what degree 17 are we talking about reconstructive as 18 opposed to a cosmetic procedure? 19 MR. GARCIA: Objection. 20 A. See, I don't know whose opinions 21 they are talking about. I don't know if they 22 are talking about opinions within WPATH or 23 opinions of clinicians, you know, the surgery 24 or third-party payors. So it's not clear I 25 think for me. You know, my purposes</p>	<p style="text-align: right;">Page 149</p> <p>1 J. Drescher, M.D. 2 to enhance their appearance; is that correct? 3 MR. GARCIA: Object to form. 4 A. Well, they could be done simply for 5 cosmetic purposes, but they are also being 6 done for a person who had some type of trauma 7 and had a body part damaged that would 8 require reconstruction. 9 Q. In that context where somebody had 10 a trauma and one of those procedures for 11 Roman V-D, is it fair to characterize that as 12 reconstruction, reconstructive surgery? 13 A. Yes. 14 Q. If we were to take that and put 15 that into the context of somebody that has 16 gender dysphoria and we do the same 17 procedure, is that surgery reconstructive or 18 is it constructive? 19 A. From the perspective of the 20 transgender patient, it's reconstructive. 21 Q. Why is that? 22 A. Because they believe they have the 23 wrong body and that by reconstructing the 24 body they were supposed to have, they can 25 live the gender they feel themselves to be.</p>

<p style="text-align: right;">Page 150</p> <p>1 J. Drescher, M.D. 2 Q. But isn't it true that their body 3 was never at a place that had the -- what is 4 the result of a final procedure there, that's 5 a new thing that's been created as opposed to 6 recreated? 7 MR. GARCIA: Objection. 8 A. From the perspective of the 9 transgender patient from the perspective of 10 the external world, there's something wrong 11 with the mind of the person who doesn't 12 accept the body into which they're born. 13 From the perspective of the 14 transgender patient, there's something wrong 15 with the body they were born with. And so to 16 fix the body they were born with requires 17 confirmation or reconstruction from that 18 perspective. And so the question -- the 19 answer to that question depending whether you 20 are looking from a SIS gender perspective or 21 from the transgender perspective. 22 Q. Wouldn't that also be true in terms 23 of whether you consider it constructive or 24 reconstructive, that in the mind of the 25 person who is receiving the treatment who has</p>	<p style="text-align: right;">Page 152</p> <p>1 J. Drescher, M.D. 2 with gender incongruence and stress 3 associated with minority stress? 4 A. I don't know the answer to that 5 question. 6 Q. In terms of a person seeking 7 treatment for gender dysphoria, is the 8 patient's ability to consent relevant to the 9 treatment of gender dysphoria? 10 A. Yes, patients have to be competent 11 to consent to treatment. 12 Q. Do you know whether in your 13 experience, your clinical experience, whether 14 persons with gender dysphoria ever seek out 15 care beyond what they need as a medical 16 matter? 17 A. Not that I know of. 18 Q. Let me follow up with another 19 question. Why do patients have to be able to 20 consent to their treatment? 21 A. I'm not sure I understand why do 22 patients have to be able to consent? Medical 23 ethics, the law requires a person be able to 24 consent. 25 Q. One of the things you said was</p>
<p style="text-align: right;">Page 151</p> <p>1 J. Drescher, M.D. 2 gender dysphoria it is reconstructive as you 3 described, but to the outside observer on 4 their objective basis they look at that as a 5 constructive procedure? 6 A. Because you are calling the outside 7 observer the objective when there are two 8 subjectivities, SIS subjectivity and 9 transgender subjectivity. And I'm pretty 10 sure these regulations were written by SIS 11 gender people. 12 Q. Is a person's physiology something 13 that can be objectively assessed? 14 A. What do you mean "physiology"? 15 Q. Their physical being. 16 A. You can exam a body, yes. 17 Q. Can that be objectively assessed? 18 A. I don't know what you mean by 19 "objectively assessed." You can measure a 20 person's blood pressure, you can measure what 21 substances are in the blood, you can check 22 their eyes. You can do those things, yes. 23 Q. Just to go back to something we 24 were talking about earlier, is there a 25 distinction between the distress associated</p>	<p style="text-align: right;">Page 153</p> <p>1 J. Drescher, M.D. 2 ethics. What do you mean by that? 3 A. Medical ethics require that we are 4 in collaborative relationships with our 5 patient and that we are required to educate 6 them about the treatments that we are going 7 to provide them with. And so part of the 8 process of doing that is providing what we 9 call informed consent. 10 If I am going to put you on a 11 medication for your depression, for example, 12 I have to tell you about how the medication 13 might help, but I also have to tell you what 14 side effects the medication might have. And 15 once you understand the implications of 16 either accepting the treatment or declining 17 the treatment, then you have the process of 18 informed consent. 19 Q. Let me ask you just a couple of 20 questions here. 21 Are there some persons with gender 22 dysphoria for whom no amount of surgical 23 procedures will relieve their dysphoria? 24 MR. GARCIA: Objection. 25 A. I don't know the answer to that</p>

<p style="text-align: right;">Page 154</p> <p>1 J. Drescher, M.D. 2 question. I have not met such a person. 3 Q. Are you aware of any clinicians or 4 mental health caregivers who treat children 5 with gender dysphoria who hold the opinion 6 that the WPATH standards of care should be 7 disregarded? 8 A. I think there's an organization 9 called National Association for Research and 10 Therapy of Homosexuality that say you can 11 treat homosexuality and change it to 12 heterosexuality. I don't believe that the 13 people in that organization believe in the 14 WPATH standards of care. 15 Q. Are you aware of any other 16 clinicians who are treating children with 17 gender dysphoria who believe that the 18 standards of care should be disregarded if in 19 their opinion another course of treatment 20 should be followed? 21 A. Not that I know of. 22 Q. Are you aware of any clinicians or 23 healthcare giver whose treats children with 24 gender dysphoria who believe the standards of 25 care are not adequate to treat gender</p>	<p style="text-align: right;">Page 156</p> <p>1 J. Drescher, M.D. 2 A. Yes, I am. 3 Q. At the bottom of the first page it 4 states, "Some clinicians encourage early 5 social transition without surgery or 6 medication. This approach implicitly assumes 7 a trans-adult outcome or a benign transition 8 back to the original gender. But little 9 research has been done on outcomes." 10 Do you see that? 11 A. Yes. 12 Q. What do you mean about the 13 approach, and I take it that means without 14 surgery or medication? The approach, what do 15 you mean the approach implicitly assumes a 16 trans-gender adult outcome? 17 MR. GARCIA: Objection. 18 A. I mean that the clinicians who do 19 early social transition assume that a 20 transgender child will become a transgender 21 adult. 22 Q. In your opinion, is that assumption 23 misplaced? 24 A. In my opinion, nobody knows how to 25 tell the difference between a child who will</p>
<p style="text-align: right;">Page 155</p> <p>1 J. Drescher, M.D. 2 dysphoria in children? 3 A. Not that I know of. 4 MR. GASIOR: Can we mark this as 5 the next exhibit. 6 (New York Times article entitled 7 "The New York Times Sunday review 8 letter's Sunday Dialogue: Our notions 9 of Gender" dated June 29, 2013 marked 10 Drescher Exhibit G for identification, 11 as of this date.) 12 Q. Dr. Drescher, the court reporter 13 handed you Drescher Exhibit G. It is 14 eight-page document by my count which at the 15 top says "The New York Times Sunday review 16 letter's Sunday Dialogue: Our notions of 17 Gender" dated June 29, 2013. 18 Do you see that document? 19 A. Yes. 20 Q. On the first page wrapping over to 21 the second page, do you recognize what is 22 written there? 23 A. Yes, I wrote it. 24 Q. Okay. So you are the author of 25 this?</p>	<p style="text-align: right;">Page 157</p> <p>1 J. Drescher, M.D. 2 desist and the child who will persist on an 3 individual basis. 4 Q. So do you have any opinion then 5 about whether clinicians who encourage early 6 social transition are making -- are correctly 7 treating children with gender dysphoria? 8 A. I have written in scholarly 9 literature concerns about how people are not 10 necessarily considering all of the 11 implications of the early social transition, 12 yes. 13 Q. And what are your concerns there? 14 A. Well, I think that transition in 15 one direction is a very complicated process, 16 usually requiring a lot of mental health and 17 psychosocial systems. So it's also possible 18 that the -- you know, for -- if for example a 19 social transition child has desistance of 20 their gender dysphoria and they have to 21 transition back, they will be equally complex 22 in terms of the psychosocial supports that 23 would be needed to transition the child back 24 to the original gender. So that's -- which 25 the people who do this don't really in my</p>

<p style="text-align: right;">Page 158</p> <p>1 J. Drescher, M.D. 2 opinion talk enough about or pay that much 3 attention to, the consequences of that 4 possibility. 5 Q. And when you say "these people," 6 are you referring to clinicians who are 7 actually treating gender dysphoric children? 8 A. Yes. 9 MR. GARCIA: Objection to form. 10 Q. And at the end of that quote I just 11 read you say, "But little research has been 12 done on these outcomes." What do you mean 13 "little research has been done"? 14 A. That the people who do early social 15 transition have not done research on 16 long-term outcomes. 17 Q. And in terms of whether children 18 are receiving adequate care, is that 19 important to know, that answer? 20 MR. GARCIA: Objection. 21 A. Yes. 22 Q. And why is that? 23 A. Well, it would be helpful in terms 24 of helping families make the right decision 25 for their child to have as much information</p>	<p style="text-align: right;">Page 160</p> <p>1 J. Drescher, M.D. 2 So, for example, many transgender 3 adults have adopted, you know, the 4 transgender children, you know, as -- and 5 they advocate for them many cases seeing, you 6 know, their own lives and the lives of these 7 children being identified early on. So they 8 argue from a perspective as transgender 9 adults for the need for transgender children. 10 There are clinicians, for example, 11 who don't believe that children should grow 12 up to be transgender, for example. And so 13 they perform practices to try and prevent 14 trans-gender in children. There are 15 clinicians who practice more 16 gender-confirming models, you know, because 17 they are, as they self-describe, gender 18 affirming. That's their philosophy. And 19 then -- so those are some of the agendas that 20 get -- and then there are the parents. 21 It's possible, for example, for 22 some parents to do harm to their children 23 because they cannot accept the possibility 24 the child might be gender nonconforming, let 25 alone transgender. And then there are</p>
<p style="text-align: right;">Page 159</p> <p>1 J. Drescher, M.D. 2 as they need in order to provide adequate 3 informed consent with treatment. You might 4 go ahead with a treatment even though you 5 don't have all of the answers, but not having 6 all the answers is part of providing informed 7 consent. 8 Q. Okay. If you flip over to Drescher 9 Exhibit G to the eighth page, at the top of 10 the page it says "The writer responds" and 11 your name is down at the bottom. 12 Is this something on page 8 that 13 you have written? 14 A. Yes. 15 Q. In the second paragraph it states, 16 "I share Ms. Ladin's concern that the actual 17 needs of gender-variant children may get 18 obscured when they serve as proxies for a 19 multiplicity of adult agendas. 20 What do you mean by proxies for a 21 multiplicity of adult agendas? 22 A. So in most cases the children 23 cannot speak for themselves and so the people 24 who speak for the children are people who 25 often have their own agendas.</p>	<p style="text-align: right;">Page 161</p> <p>1 J. Drescher, M.D. 2 parents who are not comfortable with the idea 3 we don't know what the final outcome of the 4 child might be and they want the matter 5 settled and the decision made early on to 6 transition the child. So these sort of 7 represent the example of the possibilities of 8 what can happen and that's what I mean. 9 Q. So am I correct that when you say 10 that proxies for multiplicity of adult 11 agendas, these are adult agendas advocating 12 different kinds of -- 13 A. Right, everybody -- yes. 14 Q. So different kinds of approaches to 15 treating children with gender dysphoria? 16 MR. GARCIA: Objection. 17 A. Yes, both clinicians and other 18 people who are, you know, advocating for the 19 children who may not be clinicians, and 20 parents. 21 Q. And parents? 22 A. And parents. 23 Q. These proxy issues, proxy agendas 24 by various people for treating gender 25 dysphoric children, is this a relatively new</p>

41 (Pages 158 - 161)

<p style="text-align: right;">Page 162</p> <p>1 J. Drescher, M.D. 2 development -- 3 MR. GARCIA: Objection. 4 Q. -- in the treatment of gender 5 dysphoric children? 6 MR. GARCIA: Objection. 7 A. I'm not sure I understood the 8 question. 9 Q. We are talking about these 10 competing views. Is it a relatively recent 11 phenomenon in terms of the medical community 12 having to address this issue? 13 A. The treatment of gender dysphoric 14 children begins in the '50s and '60s in the 15 United States. The aim of treatment was to 16 try and get the children to adjust to their 17 natal bodies, the bodies to which they were 18 born, to get them comfortable within themself 19 to try to prevent future transsexualism. 20 In the 1990s -- and the Dutch 21 clinic took a different tact, which was that 22 they are not so interested in preventing 23 transsexualism. So they -- so whereas the 24 first method actively discourages 25 cross-gender interest in the children, the</p>	<p style="text-align: right;">Page 164</p> <p>1 J. Drescher, M.D. 2 around many, many years and the Dutch clinic 3 30 years. I think it's a difference of 4 opinion what constitutes best practices for 5 prepubescent children. 6 Q. Is there any empirical evidence to 7 say that one approach as opposed to the other 8 is getting better outcome? 9 A. Not to my knowledge. 10 Q. Let's me go to the third paragraph 11 of page 8 of Drescher Exhibit G where you 12 state: "Ms. Beyer, correctly notes a solid 13 empirical basis supporting transition in 14 adults. Yet the same cannot be said about 15 the child literature." What do you mean by 16 "the same cannot be said about the child 17 literature"? 18 A. That supporting social -- I'm 19 talking about social transition. So, that's 20 all I'm talking about. 21 Q. As opposed to another kind of 22 treatment for children with gender dysphoria? 23 A. All three approaches that I 24 mentioned are in accord when it comes to 25 puberty suppression for gender dysphoric</p>
<p style="text-align: right;">Page 163</p> <p>1 J. Drescher, M.D. 2 Dutch take a different position. They say we 3 don't know if the child will persist or 4 desist, but we are not going to make them 5 feel bad about the cross-gender interest. We 6 will let the natural course of gender 7 development unfold. They started their 8 clinic in the '80s and they are around for 9 30-some-odd years. 10 And then the gender -- so-called 11 gender affirming model, which is to do social 12 transition, is relatively new. I think they 13 just formally established a clinic in 14 San Francisco a few years ago. The person 15 leading the clinic has been doing this for a 16 number of years. 17 Q. Is it fair to say -- I'm trying to 18 sort of capsule what you said on the first 19 page about little research and about proxies 20 of people with different agendas for the 21 treatment of gender dysphoric children, that 22 this is an area that is influx? 23 A. No. Well, I mean, it's an area 24 where there's not consensus. I'm not sure 25 it's influx. The Toronto clinic has been</p>	<p style="text-align: right;">Page 165</p> <p>1 J. Drescher, M.D. 2 children who persist to advance puberty 3 services their consensus, even the more 4 conservative clinic will do puberty 5 consensus. 6 Q. Which conservative clinic are you 7 talking about? 8 A. Toronto, Dr. Zucker's clinic. 9 MR. GARCIA: Let him finish. 10 Q. In that same paragraph, "Ms. Bayer" 11 the last sentence of that says, "On the other 12 hand, that does not answer the question 13 whether a young child permitted to transition 14 gender" -- "on the other hand, that does not 15 answer the question of whether a young child 16 permitted to transition gender role who then 17 changes her mind can simply and harmlessly 18 transition back to the natal gender." 19 What are you referring to if you 20 say they cannot, what do you mean by that 21 statement? 22 A. So, you know, this format in the 23 New York Times is that I was invited to 24 submit a letter. The letter's editors said 25 would I like to write a column. And I asked</p>

<p style="text-align: right;">Page 166</p> <p>1 J. Drescher, M.D. 2 them what would you like me to write about. 3 And I gave them three possible subjects and 4 this is what they wanted to hear about 5 because there was a story in the news. Then 6 they published my original letter on 7 Wednesday and then they invite responses that 8 will be published in the Sunday paper and 9 then I get to respond to that. So I'm 10 responding to one of the letters. So the 11 context of this paragraph is, you know, the 12 gender-affirming group who love their 13 socially-transitioned children so much, you 14 know, they don't want them to be hurt in 15 anyway and, you know, with Dr. Zucker's kind 16 of treatment, for example, you know, 17 because -- well, and so while I agree that it 18 -- with Dr. Zucker's approach can be harmful, 19 I read a Ph.D. thesis for example by a young 20 man who was treated by Dr. Zucker's 21 predecessor, Dr. Green, in his sissy boy 22 syndrome study, he didn't grow up to be 23 trans, he grew up to be gay, but he felt the 24 treatment was harmful to him. That's 25 irrelevant to the way children should be</p>	<p style="text-align: right;">Page 168</p> <p>1 J. Drescher, M.D. 2 cross-gender interest. So, even though they 3 are not given a name change, they are viewed 4 as openly transgender children, you know. 5 And what happens sometimes, she says, is that 6 there are occasions that the child whose 7 gender dysphoria has desisted around age 13 8 or 14 will tell the clinicians that they are 9 reluctant to let everyone know because 10 everybody is so accepting of them in the 11 cross-gender role, so they, you know, they 12 don't want to tell anyone. They wind up 13 telling the clinician to reveal it. So 14 that's -- to me that is something that should 15 be of concern. 16 (New York Times article entitled 17 "The New Girl in School: Transgender 18 Surgery at 18" dated June 16, 2015 19 marked Drescher Exhibit H for 20 identification, as of this date.) 21 Q. Dr. Drescher, the court reporter 22 has handed you a document that has been 23 marked as Drescher Exhibit H, a New York 24 Times article titled "The New Girl At School: 25 Transgender Surgery at 18."</p>
<p style="text-align: right;">Page 167</p> <p>1 J. Drescher, M.D. 2 socially transitioned. I'm saying, yes, 3 because I may not agree with Dr. Zucker's 4 approach. Doesn't mean we should be socially 5 transitioning children without fully 6 understanding the implications of early 7 social transition. That's what I'm trying to 8 say there. 9 Q. So are there risks that somebody, 10 if a child who has transitioned the role 11 that, as you put at the end there they may 12 not simply harmlessly transition back? 13 A. That's an open question. That's an 14 open question. I don't -- I'm not a child 15 psychiatrist, I actually don't treat 16 children. What I know is from what I read 17 and discussions with clinicians who do treat 18 children. 19 Dr. Kettinis who I mentioned 20 earlier who used to head the Dutch clinic and 21 I, we were on the DSM and we were on the ICD 22 committee together. So, she talked about 23 they would occasionally have a child who was 24 -- they don't socially transition the 25 children, but they don't discourage their</p>	<p style="text-align: right;">Page 169</p> <p>1 J. Drescher, M.D. 2 Do you see that? 3 A. Yes. 4 Q. Dated June 16, 2015? 5 A. Um-hum, yes. 6 Q. Have you seen this article before? 7 A. Yes, I think I'm quoted in that 8 article. 9 Q. Indeed. 10 Page 2 of 8 toward the bottom of 11 the page there is the third to the last 12 paragraph, the one that begins "Some experts 13 argue." Do you see that? 14 A. Yes. 15 Q. Let me read that, "Some experts 16 argue the earlier the decision is made, the 17 more treacherous because it is impossible to 18 predict which children will grow up to be 19 transgender and which will not." 20 Do you agree with? 21 A. I would take out the words "more 22 treacherous" which the reporter added, but 23 the sentence pretty much what I said to 24 Bayer. 25 Q. Were you the source of that</p>

<p style="text-align: right;">Page 170</p> <p>1 J. Drescher, M.D. 2 information or that -- 3 A. I believe I was. 4 MR. GARCIA: Objection. 5 A. I was talking with her about early 6 social transition, yes, but I never used the 7 word "treacherous" myself. 8 Q. Did you use another word besides 9 treacherous? 10 A. I said it is impossible to predict 11 which children will grow up to be transgender 12 and which will not. 13 Q. Is that consistent with what we 14 said, we will not know who will be desist and 15 who will be persist? 16 A. Correct. 17 Q. I use that quote advisedly. Can 18 you tell me if it is an accurate quote, 19 "Basically you have clinics working by the 20 seat of their pants making these decisions. 21 And depending on which clinic you go to, you 22 get a different response," said Jack 23 Drescher, Dr. Jack Drescher, a New York City 24 psychiatrist who helped development of the 25 diagnosis for gender dysphoria."</p>	<p style="text-align: right;">Page 172</p> <p>1 J. Drescher, M.D. 2 do a lot of prospective research. They are a 3 little -- I find them a little more humble in 4 their therapeutic goals than the other two 5 approaches. Since they don't try to prevent 6 transsexualism and try to use a natural 7 unfolding process of the child's gender 8 identity, they leave the door open for one 9 more thing or another. They don't do social 10 transition in prepubescent children, they 11 don't try to discourage cross-gender behavior 12 in sexualism. They do research on the 13 outcomes of how the children are doing, which 14 I believe I cited earlier today. 15 Q. Let's get back to Drescher 16 Exhibit G, the other Sunday dialogue. Is it 17 safe to say with respect to those three 18 clinics, there's little research that's been 19 done for the outcomes of these three clinics? 20 MR. GARCIA: Objection. 21 A. No, there is research at -- the 22 Dutch clinic and the Toronto clinic both do 23 research. They are both research centers, 24 actually. 25 MR. GARCIA: Can we take a short</p>
<p style="text-align: right;">Page 171</p> <p>1 J. Drescher, M.D. 2 What did you -- is that an accurate 3 quote of what you said? 4 A. This was a 45-minute telephone 5 interview with the journalist. And that 6 is -- that probably is me speaking off the 7 cuff, yes. 8 Q. On the cuff? 9 A. On the cuff. 10 Q. Do you agree with that statement? 11 A. I would phrase it -- if I had the 12 chance to edit my comments, I would phrase it 13 differently. The essence what I was trying 14 to say what we have already been talking 15 about, three different clinical approaches. 16 Each of the clinical approaches following 17 their own approach. They are aware of the 18 other clinical approaches, but they pretty 19 much do what they want. 20 Q. And, to your knowledge, is there 21 any -- are there any empirical studies that 22 support those, any of those three approaches 23 more so than the other? 24 A. Well, I find the Dutch approach 25 most compelling of the three. I think they</p>	<p style="text-align: right;">Page 173</p> <p>1 J. Drescher, M.D. 2 break? 3 MR. GASIOR: Absolutely. 4 (Recess taken.) 5 A. Can I just clarify some of my 6 comments? 7 Q. Any time. 8 A. So I just wanted to be clear 9 because we are talking about children that 10 the DSM has two different diagnoses, because 11 the child population is considered different 12 than the adolescent. And adult population 13 you have gender dysphoria in children and 14 gender dysphoria in adolescents and adults. 15 And so the diagnostic criteria are different 16 and the treatments are different. 17 Although, there are no 18 controversies about children which we have 19 been talking about all of those controversies 20 are nonmedical controversy. They don't 21 involve medication or anything like that. 22 They only involve what psychosocial, you 23 know, interventions you are going to do with 24 a particular child who has not yet reached 25 puberty. There are no controversies in the</p>

<p style="text-align: right;">Page 174</p> <p>1 J. Drescher, M.D. 2 treatment of adolescents and adults among the 3 three different kinds of clinics. 4 Q. Let me ask you a question: You 5 said there is controversy about the social? 6 A. Yes. 7 Q. Can you explain that? 8 A. Well, should you, one -- as I said, 9 one approach is to social transition a child, 10 which doesn't involve medication or medical 11 treatment at all. Name change, you know, 12 allowing the child to present as the other 13 gender in school and other social settings. 14 The other side of that, the other 15 extreme version of that is to discourage any 16 type of cross-gender behavior, not involve a 17 boy to play with Barbies, teach them to play 18 with children of both genders. None of that 19 has to do with medications or any medical 20 interventions. When it comes to puberty and 21 the child is still gender dysphoria, all 22 three agree. 23 Q. What is the agreement? 24 A. It is a reasonable thing to do for 25 a child gender dysphoric, to receive</p>	<p style="text-align: right;">Page 176</p> <p>1 J. Drescher, M.D. 2 does not desist until after puberty. 3 So usually a child who gets puberty 4 blocking is having anxiety, maybe become 5 suicidal and depressed. That's why they give 6 these kids the puberty blockers. 7 Q. Is there medical consensus that 8 prepubertal children should not get medical 9 interventions? 10 A. There is no medical interventions 11 for prepubic children. 12 Q. If we talk about the various -- you 13 are talking about three approaches. If I 14 call them three schools of thought, you 15 understand we are talking about the same 16 thing now? 17 A. Yes. 18 Q. Do any of the three schools of 19 thought advocate or recommend that children 20 should get hormones as treatment? 21 A. Cross-hormonal, nobody recommends 22 course-hormonal treatment to a child. 23 Q. What about surgical procedures? 24 A. No surgical procedures for 25 prepubertal child.</p>
<p style="text-align: right;">Page 175</p> <p>1 J. Drescher, M.D. 2 medication to prevent them from going to 3 puberty. One, they will either persist and 4 if they persist, the puberty blocking will 5 make transition later on much easier because 6 they won't develop secondary sex 7 characteristics. And if they desist, they 8 can stop the puberty blocker which is 9 reversible and they have lay puberty and go 10 on to have secondary characteristics of the 11 body which they now feel comfortable with. 12 Q. Is there the chance that the 13 decision to provide puberty blockers could 14 result in a child who otherwise would have 15 been a desister becoming a persister? 16 MR. GARCIA: Objection. 17 A. I don't think so. Because, as I 18 said, I think the Dutch who seem the least 19 invested, you know, in what the outcome will 20 be invested puberty blocking as a -- they 21 initiated the puberty blocking as a 22 technique. So what they do, they are really 23 looking -- they think of it for a desisting 24 child as giving them a little more time. 25 Because in some kids, the gender dysphoria</p>	<p style="text-align: right;">Page 177</p> <p>1 J. Drescher, M.D. 2 Q. There are no -- 3 A. The only medical treatment for 4 children is hormone suppression as children 5 are about to enter puberty and still have 6 gender dysphoria. 7 Q. So as I understand your testimony 8 there, to your knowledge, nobody is 9 advocating that prepubertal children should 10 get cross-sex hormones or any kind of 11 surgical intervention? 12 A. Nobody is advocating for that, to 13 my knowledge. 14 Q. What about with respect to 15 adolescents? 16 A. With adolescents the people are 17 suggesting if the gender dysphoria approach 18 appears to be persisting in Holland, I think 19 they give them hormones as young as 16. 20 Q. Do you know of any school of 21 thought as we have been talking about here 22 that recommends cross-sex drugs, hormones for 23 adolescents under the age of 16? 24 A. I believe the San Francisco clinic 25 I was on a panel that the women in charge of</p>

45 (Pages 174 - 177)

<p style="text-align: right;">Page 178</p> <p>1 J. Drescher, M.D. 2 that clinic Dr. Ehrensaft, E-H-R-E-N-S-A-F-T, 3 and she mentioned in passing that they are 4 treating some children younger than 16 with 5 cross-hormones. 6 Q. Is that a minority approach? 7 MR. GARCIA: I will object at this 8 point. This is beyond the scope of Dr. 9 Drescher's testimony that he's 10 providing, he's been retained to provide 11 in this matter. 12 Q. You can answer the question. 13 A. I believe so. 14 Q. Do you know whether the Dutch 15 protocol you spoke about has been implemented 16 anywhere in the U.S.? 17 MR. GARCIA: Objection. 18 A. Yes, puberty suppression is done in 19 Massachusetts and California and other places 20 I believe. 21 Q. In the document marked as Drescher 22 Exhibit H where you were quoted on page 2, at 23 the end of the article there's a correction 24 June 16, 2015. Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 180</p> <p>1 J. Drescher, M.D. 2 unusual. I'm not sure. 3 Q. Do people with gender dysphoria 4 have a higher incidence of suicide attempts 5 as opposed to the general population? 6 A. I believe that the risk of suicide 7 is, suicidal ideation is greater in the 8 transgender population. 9 Q. Do you know that the same is true 10 for children with gender dysphoria? 11 A. I don't think it is. I don't think 12 there's any article on children. Mostly I 13 think it's adolescents. That is by children, 14 children we are talking about -- if we are 15 saying children, we agree we mean 16 prepubescent children. We are on the same 17 page? 18 Q. Yes. If I ever used the term 19 "children," I'm referring to prepubescent 20 children as opposed to postpubescent. 21 A. Who adolescents who are still 22 children. 23 Q. I use children and adolescents as 24 two different groups. 25 Are you familiar with Tanner</p>
<p style="text-align: right;">Page 179</p> <p>1 J. Drescher, M.D. 2 Q. Page 8, I believe it says, "An 3 earlier version of a picture caption with 4 this article misstated the circumstances of 5 Katherine Boon's suicide threats when was 16 6 not 17 and she had already begun gender 7 reassignment, not before." 8 Do you see that? 9 A. Yes. 10 Q. In your experience, do individuals 11 who have initiated gender reassignment 12 procedures engage in suicidal behaviors more 13 than -- any degree more than any not 14 receiving treatment? 15 MR. GARCIA: Objection. 16 A. Could you restate the question. 17 Q. At least in this article, they 18 stated that Katherine Boon's suicide threat 19 happened after she began gender reassignment, 20 not before. 21 Is that unusual in your experience 22 for somebody who is undergoing gender 23 reassignment procedures? 24 MR. GARCIA: Objection. 25 A. I'm not sure if it's usual or</p>	<p style="text-align: right;">Page 181</p> <p>1 J. Drescher, M.D. 2 stages? 3 A. Tanner stages of puberty? 4 Q. Yes. 5 A. Vague recollection from medical 6 school. 7 Q. Never mind. 8 I think earlier in your testimony 9 we were talking about groups advocating for 10 one particular approach or another sort of 11 adults stepping into the arena to advocate 12 for one approach or another for children. I 13 think that may have been the context when you 14 said that children can't speak for 15 themselves. Why can't children speak for 16 themselves? 17 A. Well, one, they may be too young to 18 speak for themselves. Two, they may not have 19 the legal right to speak for themselves. And 20 three, they may not have the cognitive 21 ability to speak for themselves. 22 Q. What factors influence the ability 23 to consent? 24 MR. GARCIA: Object to form. 25 Q. I'm speaking in the context for the</p>

<p style="text-align: right;">Page 182</p> <p>1 J. Drescher, M.D. 2 treatment of gender dysphoria. 3 MR. GARCIA: Same objection. 4 A. Well, in adults, you know, the 5 ability to give consent is different for 6 minors than it is for adults. So consent in 7 adults requires that the person is capable of 8 understanding whatever treatment is being 9 offered when it's explained to them and they 10 are able to understand both the risks and the 11 benefits of getting the treatment and risks 12 and benefits of not getting. 13 Q. How do you assess the capacity for 14 someone to make that kind of consent? 15 A. Well, you can ask a patient did you 16 understand what I just said, could you repeat 17 to me what I just said, did you understand, 18 what you understand would happen if you do 19 this treatment, do you understand what would 20 happen if you don't. If you just ask them to 21 explain it back to you. 22 Q. That would be something that the 23 clinician can do? 24 A. Most clinicians can do that, sure. 25 Q. In terms of a children's cognitive</p>	<p style="text-align: right;">Page 184</p> <p>1 J. Drescher, M.D. 2 A. Dr. Byne. 3 Q. -- you and Dr. Byne the authors of 4 a book by this title? 5 A. We are the editors of a book by 6 this title. 7 Q. I'm trying to elevate you. 8 A. Thank you. 9 Q. Does what has been marked as 10 Drescher Exhibit I appear to be a portion of 11 that book? Please feel free to peruse it as 12 much as you would like. 13 A. This all looks familiar. 14 Q. If you flip to what has page 1 at 15 the bottom, there is an introduction. First 16 part of this are sort of fly page and the 17 publishers notes and there's the content and 18 citation information which is all Roman VI, 19 VII, but then you eventually get to something 20 called "Introduction" which has page 1 at the 21 bottom. 22 Do you see that? 23 A. Yes. 24 Q. It says, "The Treatment of 25 Dysphoric Gender Children and Adolescents."</p>
<p style="text-align: right;">Page 183</p> <p>1 J. Drescher, M.D. 2 ability to give consent, how is that 3 assessed? 4 MR. GARCIA: Objection. Beyond the 5 scope. 6 A. So I'm not a child psychiatrist. 7 (Article entitled "Treating 8 Transgender Child and Adolescent and 9 Interdisciplinary Discussion" marked 10 Drescher Exhibit I for identification, 11 as of this date.) 12 Q. Dr. Drescher, the court reporter 13 has handed you a document which has been 14 marked as Drescher Exhibit I, first page of 15 which bears the title "Treating Transgender 16 Child and Adolescent and Interdisciplinary 17 Discussion," edited by Jack Drescher and 18 William Byne. 19 Dr. Drescher, are you and William 20 Byne the authors of a book with this title? 21 A. We are the editors of this book. 22 Q. Am I correct that there is a book, 23 not this -- let me represent to you that this 24 is a copy of portions of a book, but were you 25 and Mr. Byne --</p>	<p style="text-align: right;">Page 185</p> <p>1 J. Drescher, M.D. 2 Am I correct that you and Dr. Byne are, in 3 fact, the authors this section? 4 A. Yes. 5 Q. And then if you continue to flip 6 you will come to what is page 207, a section 7 titled "Gender dysphoric gender variants 8 (GD/GV) summarizing what we know and what we 9 have yet to learn." 10 Do you see that? 11 A. Yes. 12 Q. Are you and Dr. Byne the authors of 13 this section? 14 A. Yes. 15 Q. Am I correct that this book and 16 portions that we are looking at was published 17 in 2013? 18 A. This was originally published as a 19 special issue of the Journal of Homosexuality 20 in 2012 and then we released as a book in 21 2013. 22 Q. Is the information in the section 23 in this part that begins on page 207 24 "Summarizing what we know and what we have 25 yet to learn," is the information in here,</p>

47 (Pages 182 - 185)

<p style="text-align: right;">Page 186</p> <p>1 J. Drescher, M.D. 2 you are and Dr. Byne are the authors of that? 3 A. Yes. 4 Q. Has any of the information that was 5 in here, to your knowledge, been updated in 6 any way since it was first published? 7 MR. GARCIA: Objection. 8 A. I would have to read through it to 9 answer that question. 10 Q. Was the information as you 11 cataloged, as you put it in here at that time 12 accurate, to your knowledge? 13 A. To my knowledge at the time it was 14 accurate, yes. 15 MR. GASIOR: Can we take a short 16 break. 17 (Recess taken.) 18 Q. So, Dr. Drescher, I think we are 19 very close to being finished here. I just 20 have a few questions which I hope to run 21 through with respect to the book of which you 22 and Mr. Byne are the editors. 23 The chapter "What We Know and What 24 We Have Left to Learn" you and Dr. Byne are 25 the authors and I believe you testified that</p>	<p style="text-align: right;">Page 188</p> <p>1 J. Drescher, M.D. 2 present no way to predict which 3 children" -- "there is at present no way to 4 predict in which children GD/GV will or will 5 not persist into adolescent and beyond that." 6 Is that still accurate as far as you know? 7 A. There is a recent study by the 8 Dutch group which they are trying to identify 9 factors looking back at the children they 10 work with that might, they have identified 11 one factor as a group. But I would qualify 12 this by saying there's no present way to 13 predict an individual child, their GD or GV 14 will persist to adolescent or beyond. 15 Q. If you flip to page 211, the bullet 16 point at the very top of the page, "The 17 extent to which the stress experience by 18 minors with GD/GV should be attributed to 19 GD/GV per se as opposed to society's 20 nonacceptance of gender vitality or whether 21 there is one just one answer to this 22 question." 23 Has that changed? 24 A. No. 25 Q. And am I correct that that is under</p>
<p style="text-align: right;">Page 187</p> <p>1 J. Drescher, M.D. 2 you believe that the material that you put 3 here was accurate; is that correct? 4 A. It was accurate. At the time we 5 believed it to be accurate at the time we put 6 it in. 7 Q. I would just -- because this was 8 published in around 2013, you say it was 9 before that, I just want to see if any of the 10 things -- just a few of the things that I 11 will point to here, whether you believe there 12 is some new material that has come to light 13 since this was published. Can we do that? 14 A. Sure. 15 Q. Page 209 under the section about 16 "The children and adolescents with GD/GV: 17 What we know," there is eight bullet points 18 that start "The gender dysphoria for majority 19 of children with GD/GV does not persist to 20 adolescents and when it does not the children 21 are referred to as desisters." Has that 22 changed? 23 A. As far as I know, it has not 24 changed. 25 Q. Two bullet points down "There is at</p>	<p style="text-align: right;">Page 189</p> <p>1 J. Drescher, M.D. 2 the section "What we have yet to learn" -- 3 A. Yes. 4 Q. -- back on page 210? 5 That's correct? 6 A. Yes. 7 Q. If we flip over to page 212, this 8 is under the heading about "The treatments 9 minors with GD/GV receive, what we know." 10 Do you see that? 11 A. Yes. 12 Q. The one, two, three, four -- fourth 13 bullet point, "There is a need for more 14 research on the treatment of minors with 15 GD/GV, particularly perspective longitudinal 16 studies that employ standardized and 17 validated assessment instruments." 18 Do you see that? 19 A. Yes. 20 Q. Is that still accurate or has that 21 changed? 22 A. There has been research published 23 since then, but always more research will 24 always be good. 25 Q. Why would more research be good in</p>

<p style="text-align: right;">Page 190</p> <p>1 J. Drescher, M.D. 2 this instance? 3 A. This is a rare condition. The 4 number of patients who have it is small so 5 the research is restricted by those facts. 6 And so the more research you can do on a 7 small population, the more information you 8 have that can help guide treatment going 9 forward. 10 Q. I believe we covered a good chunk 11 of this, the third bullet point from the 12 bottom of page 212. This would be "What we 13 know." I believe you just testified, let me 14 make sure we are on the same page, "No 15 clinician recommends medical 16 (hormonal/surgical) treatment for GD/GV for 17 prepubertal children." 18 A. Yes, correct. 19 Q. You would agree with that? 20 A. Yes. 21 Q. On page 213 and this is -- again, 22 this continues to be under the subheading 23 "Treatment of minors with GD/GV: What we 24 know." The fifth bullet point up from the 25 bottom it says, "The Treatment Literature."</p>	<p style="text-align: right;">Page 192</p> <p>1 J. Drescher, M.D. 2 that came out in 2014 is a long-term study 3 and they -- you know, so that wasn't there 4 when we wrote this. It wasn't published when 5 we wrote this. So studies are starting to 6 appear because they have been doing it for a 7 while and they have the data. 8 Q. Flip over to page 214. Top of the 9 page it says, "What we have yet to learn." 10 First bullet point, "As it is a relatively 11 recent approach to GD/GV adolescent, we 12 cannot be certain of either the physical or 13 psychological long-term effects of 14 suppressing puberty through the use of 15 hormonal blockers." 16 Is that still an accurate 17 statement, to your knowledge? 18 A. The Dutch study, again, showed that 19 the children who underwent puberty 20 suppression did better on psychological tests 21 than a random control group of non-GD. 22 Q. Was there a study with about 50 23 people in this? 24 A. 55. 25 Q. Are there any other studies like</p>
<p style="text-align: right;">Page 191</p> <p>1 J. Drescher, M.D. 2 Do you see that? 3 A. Yes. 4 Q. "The treatment literature is 5 lacking in terms of vigorous comparative, 6 thus subjective factors play a role in the 7 clinician's choice and approaches." 8 Do you see that? 9 A. Yes. 10 Q. Is that statement still accurate, 11 to your knowledge? You might help if you 12 read the bullet point above that. 13 A. Yes, this is similar to the points 14 I made earlier about the three different 15 approaches. Yes. 16 Q. The bullet point right below the 17 one that I first pointed you to, so the 18 fourth bullet point, "The limited existing 19 evidence suggests that medical suppression of 20 puberty has minimal associated risk; however 21 a long term study of a large number of 22 subjects are lacking." 23 Is that still an accurate 24 statement? 25 A. As I mentioned, the Dutch study</p>	<p style="text-align: right;">Page 193</p> <p>1 J. Drescher, M.D. 2 that, to your knowledge? 3 A. Not to my knowledge, no. 4 Q. So that would be the one study. 5 Before that study, the statement that I just 6 read was accurate? 7 A. Yes. 8 MR. GASIOR: Give me a moment. 9 (Recess taken.) 10 Q. Let me just ask a couple of 11 questions. 12 First with respect to the new 13 regulation which we were looking at, Drescher 14 Exhibit C. And I believe your earlier 15 testimony and consistent with the statement 16 you made in your report, that the regulation 17 is at least in part consistent with the 18 standards of care. 19 Do you remember that testimony? 20 A. Yes. 21 Q. And you read certain parts of the 22 new regulation regarding gender reassignment 23 surgery. Do you remember that? 24 A. Yes. 25 Q. Am I correctly recalling your</p>

<p style="text-align: right;">Page 194</p> <p>1 J. Drescher, M.D. 2 testimony that at least with respect to 3 gender reassignment surgery, the standards of 4 care seem to be consistent -- strike that. 5 That with respect to gender 6 reassignment surgery, the new regulation was 7 consistent with the standards of care; is 8 that correct? 9 MR. GARCIA: Objection. I think 10 that mischaracterizes his testimony. 11 Q. Am I mischaracterizing your 12 testimony or can you refresh my recollection 13 what you said? 14 A. The regulations seem to follow 15 aspects of the WPATH standards of care. They 16 seem to be based upon it in part. 17 Q. And then with respect to the 18 procedures that are listed in paragraph 4-V 19 that are called cosmetic surgery, if you were 20 to assume that those procedures were, in 21 fact, covered by the new regulation would 22 that be consistent with the standard of care? 23 MR. GARCIA: Objection. 24 A. If they were covered by the 25 regulation, they would be consistent with the</p>	<p style="text-align: right;">Page 196</p> <p>1 J. Drescher, M.D. 2 Thank you, Dr. Drescher. You will 3 receive a copy of the transcript. Your 4 attorneys will tell you what to do with 5 it. Thank you for your time. 6 (Time noted: 4:03 p.m.) 7 8 JACK DRESCHER, M.D. 9 10 Subscribed and sworn to before me 11 this ____ day of _____, 2015. 12 _____ 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 195</p> <p>1 J. Drescher, M.D. 2 standards of care. 3 Q. Dr. Drescher, do you consider 4 yourself to be an advocate for persons with 5 gender dysphoria? 6 A. Part of the professional code of 7 conduct of being a member of the American 8 Psychiatric Association, we advocate for our 9 patients. So, yes, it's part of my 10 professional identity I advocate for my 11 patients. 12 Q. Would your role as an advocate 13 color your opinion as a medical provider as 14 to what was appropriate for treatment? 15 A. I believe I managed over the course 16 of my professional career to find a good 17 balance between my professional behavior and 18 advocacy behavior. 19 MR. GASIOR: I have no further 20 questions. 21 MR. GARCIA: Can you give us a 22 moment, please. 23 (Recess taken.) 24 MR. GARCIA: I have no further 25 questions.</p>	<p style="text-align: right;">Page 197</p> <p>1 2 C E R T I F I C A T E 3 S T A T E O F N E W Y O R K) 4 : ss. 5 C O U N T Y O F K I N G S) 6 7 I, DIANE BUCHANAN, a Notary 8 Public within and for the State of New 9 York, do hereby certify: 10 That JACK DRESCHER, M.D., the 11 witness whose deposition is 12 hereinbefore set forth, was duly sworn 13 by me and that such deposition is a 14 true record of the testimony given by 15 the witness. 16 I further certify that I am not 17 related to any of the parties to this 18 action by blood or marriage, and that 19 I am in no way interested in the 20 outcome of this matter. 21 IN WITNESS WHEREOF, I have 22 hereunto set my hand this 14th day of 23 August, 2015. 24 <i>Diane Buchanan</i> 25 DIANE BUCHANAN</p>

50 (Pages 194 - 197)

Page 198	Page 200
1	1
2 ----- I N D E X -----	2 DEPOSITION ERRATA SHEET
3 WITNESS EXAMINATION BY PAGE	3
4 JACK DRESCHER, MR. GASIOR 5	4 Angie Cruz, et al. vs. Howard Zucker, as
5 M.D.	5 Commissioner of the New York Department of
6 ----- INFORMATION REQUESTS -----	6 Health
7 DIRECTIONS: None	7
8 RULINGS: None	8 DECLARATION UNDER PENALTY OF PERJURY
9 TO BE FURNISHED: None	9 I declare under penalty of perjury
10 REQUESTS: None	10 that I have read the entire transcript of
11 MOTIONS: None	11 my Deposition taken in the captioned matter
12 ----- EXHIBITS -----	12 or the same has been read to me, and
13 DRESCHER FOR ID.	13 the same is true and accurate, same and
14 Exhibit A Subpoena 15	14 except for changes and/or corrections, if
15 Exhibit B 18-page report of Jack 16	15 any, as indicated by me on the DEPOSITION
16 Drescher, M.D.	16 ERRATA SHEET hereof, with the understanding
17 Exhibit C Four-page document entitled 23	17 that I offer these changes as if still under
18 "Rulemaking Activities"	18 oath.
19 Exhibit D Booklet entitled "Standards of 81	19 _____
20 Care for the Health of	20 Jack Drescher, M.D.
21 Transsexual Transgender and	21 Subscribed and sworn to on the _____ day of
22 Gender Nonconforming People"	22 _____, 2015 before me,
23	23 _____
24	24 Notary Public,
25	25 in and for the State of _____
Page 199	Page 201
1	1
2 DRESCHER FOR ID.	2 DEPOSITION ERRATA SHEET
3 Exhibit E Document entitled "Medicaid 121	3 Page No.____Line No.____Change to:_____
4 Update"	4 _____
5 Exhibit F Document entitled "Medicaid 124	5 Reason for change:_____
6 Update" dated June, 2015	6 Page No.____Line No.____Change to:_____
7 Exhibit G New York Times article entitled 155	7 _____
8 "The New York Times Sunday	8 Reason for change:_____
9 review letter's Sunday Dialogue:	9 Page No.____Line No.____Change to:_____
10 Our notions of Gender" dated	10 _____
11 June 29, 2013	11 Reason for change:_____
12 Exhibit H New York Times article entitled 168	12 Page No.____Line No.____Change to:_____
13 "The New Girl in School:	13 _____
14 Transgender Surgery at 18" dated	14 Reason for change:_____
15 June 16, 2015	15 Page No.____Line No.____Change to:_____
16 Exhibit I Articled entitled "Treating 183	16 _____
17 Transgender Child and Adolescent	17 Reason for change:_____
18 and Interdisciplinary	18 Page No.____Line No.____Change to:_____
19 Discussion"	19 _____
20	20 Reason for change:_____
21	21 Page No.____Line No.____Change to:_____
22	22 _____
23	23 Reason for change:_____
24	24 SIGNATURE:_____DATE:_____
25	25 Jack Drescher, M.D.

Page 202

1

2 DEPOSITION ERRATA SHEET

3 Page No.____Line No.____Change to:_____

4 _____

5 Reason for change:_____

6 Page No.____Line No.____Change to:_____

7 _____

8 Reason for change:_____

9 Page No.____Line No.____Change to:_____

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11 Reason for change:_____

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13 _____

14 Reason for change:_____

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16 _____

17 Reason for change:_____

18 Page No.____Line No.____Change to:_____

19 _____

20 Reason for change:_____

21 Page No.____Line No.____Change to:_____

22 _____

23 Reason for change:_____

24 SIGNATURE:_____DATE:_____

25 Jack Drescher, M.D.

52 (Page 202)

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Page 1

&	183 199:16	29 155:9,17 199:11	60 37:8 141:15,21
& 3:11	19 41:8,9,15,19 42:6	3	60s 162:14
1	109:18	3 20:17,17 21:11	7
1 16:13 25:25	1960s 46:11	22:3 90:3 107:16	7 124:23 125:3,8
130:19 184:14,20	1973 101:19	117:15 130:19	70 37:8
10 31:4 61:5 103:17	1980 101:3	30 29:5 163:9 164:3	787 3:13
105:14,16	199 3:7	4	8
10,000 34:24	1990s 43:7,9 162:20	4 19:13 20:18 21:11	8 159:12 164:11
100 59:6 72:10	19th 99:24	21:12,14 26:3,9,14	169:10 179:2
10011 3:20 6:11	1:44 124:4	26:20 27:4 86:6,17	80s 110:25 163:8
10019 3:14	2	87:25 88:4 115:7	81 198:19
10038 3:8	2 21:25 22:4 24:8,24	117:11,14,15,18	9
10271 4:9	24:25 25:13,25 26:2	120:4 130:19 140:5	9 69:4 71:13 90:12
11 1:18 2:3 101:11	26:2 64:17 86:4	140:23 145:5,7,11	91:9 130:10
103:21 104:22,23	107:14 117:15	148:16,19 194:18	90s 52:2,2 110:25
104:25 105:5,13	130:19 169:10	40 140:25	128:23
124:3 129:21 132:7	178:22	400 18:11	93 128:24
142:8,12	20 27:25 93:11	440 6:10	9:37 2:4
12 22:10 94:11	2001 94:12 95:8,10	4456 1:9 15:16	9:52 17:5
107:23	2009 9:22	45 171:4	a
120 2:9 4:8	2012 185:20	4:03 196:6	a.m. 2:4
121 199:3	2013 155:9,17	4s 21:12	ability 8:22 131:6
124 199:5	185:17,21 187:8	5	152:8 181:21,22
12:52 123:18	199:11	5 21:17 64:17	182:5 183:2
13 24:23 106:25	2014 21:5 24:10	130:23 132:13	able 7:15 34:25
107:2 108:14 127:2	95:9 192:2	145:12 198:4	114:8 116:10
168:7	2015 1:18 2:3 16:14	50 61:5 140:25	137:25 138:2
14 1:9 168:8	121:19 124:3,6,14	141:15,21 192:22	140:15 152:19,22
147 3:19	126:6 168:18 169:4	504.2 109:5	152:23 182:10
14th 197:22	178:24 196:11	505.2 21:3 22:24	absolutely 117:8
15 31:4,5,8 93:11	197:23 199:6,15	23:6,16 25:20 27:3	173:3
122:4,7,9 198:14	200:22	74:11 107:7,12	abuse 30:24 92:3,11
155 199:7	207 185:6,23	108:19 113:24	98:21
16 122:23 125:4	209 187:15	117:10	accept 150:12
168:18 169:4	20th 70:24 80:14	5052 22:20	160:23
177:19,23 178:4,24	210 189:4	50s 162:14	acceptable 99:19
179:5 198:15	211 188:15	55 93:20 94:5	accepted 52:17 70:8
199:15	212 189:7 190:12	192:24	accepting 153:16
168 199:12	213 190:21	57 89:10,12,15	168:10
17 21:5 24:10 179:6	214 192:8	6	access 63:16 102:10
18 16:5,14 21:3,13	23 198:17	6 52:21,24 63:21	102:16 135:14
168:18,25 198:15	24th 3:19 6:10	64:17 67:20 130:13	accommodate 71:6
199:14	27 83:13 86:12,16	130:14,17,19	
	86:23 87:7,18,23		

accord 164:24	173:12 183:8,16	161:11,11,23	59:25 88:16 92:8
accurate 18:19	188:5,14 192:11	163:20	97:13 114:24
170:18 171:2	199:17	ages 93:23	116:14 126:13
186:12,14 187:3,4,5	adolescents 39:8	ago 10:24 163:14	134:9 135:7 138:20
188:6 189:20	41:6,7,9 42:11 56:5	agree 12:19 14:24	139:7,7 146:8
191:10,23 192:16	58:25 60:4 64:5	27:8 87:20 99:6,9	150:19 152:4
193:6 200:13	173:14 174:2	99:10 125:11 143:8	153:25 158:19
accurately 19:25	177:15,16,23	145:23 146:7	165:12,15 178:12
20:19	180:13,21,23	148:24 166:17	186:9 188:21
action 6:15 9:8	184:25 187:16,20	167:3 169:20	answered 17:18
20:23 197:18	adopted 32:4 160:3	171:10 174:22	90:18
activation 66:22	adult 36:5,9 38:3,11	180:15 190:19	answers 7:18 159:5
actively 30:3 162:24	38:16,22 39:23	agreed 5:3,7,11	159:6
activities 23:24 24:7	40:10,24 74:5	agreement 174:23	anxiety 30:21 41:21
24:9 103:7 109:15	134:20 156:7,16,21	ahead 159:4	43:19 58:10 68:14
128:14 133:11	159:19,21 161:10	aid 3:4 17:3	79:21 92:2,11 98:21
198:18	161:11 173:12	aim 162:15	139:19 176:4
activity 25:12	adulthood 58:25	aimed 69:20 70:16	anxious 65:21,22,23
actual 72:11 159:16	adults 19:21 20:8	aims 107:8	anybody 44:24 73:9
adam's 40:18 74:8	37:5,9,18,23 39:6	air 108:10	anymore 81:12,14
85:21 87:15	41:2 56:5 60:4 64:5	airport 131:16	81:17
add 18:22 19:6	91:10,20 104:8	al 200:4	anyway 166:15
140:25	160:3,9 164:14	align 136:24	apa 34:22 101:21
added 18:22 19:2	173:14 174:2	alleviate 115:24	102:3
59:10 169:22	181:11 182:4,6,7	allow 45:21,24	apparently 35:5
addition 49:9,13	advance 165:2	102:15 123:7	appear 36:10
address 6:9 74:22	advisedly 170:17	138:16	103:21 105:13
79:11 118:21	advocacy 195:18	allowed 35:7	184:10 192:6
162:12	advocate 160:5	allowing 174:12	appearance 109:4
addressed 15:17	176:19 181:11	allows 107:14,15	109:11,17 110:11
142:5	195:4,8,10,12	allude 79:4	110:15 111:2,24
addressing 147:13	advocating 161:11	alludes 11:12	112:4,20 113:11,25
adequate 154:25	161:18 177:9,12	ambiguous 133:7	114:2 115:23
158:18 159:2	181:9	amended 20:23	118:11,24 119:3,7
adhere 81:9	aesthetic 142:16	american 14:2,13	119:13,20 120:17
adjust 162:16	affairs 136:23	195:7	120:24 125:23
adjustment 93:3	affirm 139:16	amount 153:22	126:2,20 131:4,11
administer 5:14	affirming 160:18	amputated 71:21	149:2
administered 128:6	163:11 166:12	amputation 71:24	appearing 15:24
administrative	afforded 129:7	amsterdam 33:4	appears 16:11 58:24
10:12 11:2	age 41:19 42:5 61:18	analogy 66:15	107:7 108:23 126:8
adolescence 42:14	61:20 62:19,19	analyzing 33:22	177:18
42:23 60:24	168:7 177:23	angie 1:4 200:4	appendix 71:23 72:8
adolescent 37:11	agendas 159:19,21	answer 13:6,18	apple 40:18 74:9
38:16 40:10,24 42:8	159:25 160:19	20:14 49:20 55:14	85:21 87:15

[applicable - begins]

Page 3

applicable 96:15 application 144:18 apply 145:3 applying 94:17 approach 36:4,9 104:3 156:6,13,14 156:15 164:7 166:18 167:4 171:17,24 174:9 177:17 178:6 181:10,12 192:11 approaches 42:22 43:3 161:14 164:23 171:15,16,18,22 172:5 176:13 191:7 191:15 appropriate 73:5 75:18 107:19 131:8 195:14 approval 129:4,8 approved 128:18 140:7,9 approximately 11:15,17 37:7,13 ar'es 1:4 area 28:6,7 34:8 42:18,19 51:7 79:12 79:17 99:14 128:21 163:22,23 areas 27:11 28:13 30:5 57:16 72:24 arena 181:11 argue 160:8 169:13 169:16 argument 9:17 arguments 10:9 arm 71:25 article 19:8 155:6 168:16,24 169:6,8 178:23 179:4,17 180:12 183:7 199:7 199:12 articled 199:16 articles 27:22 33:23 33:25 42:23 43:2	asked 10:21 17:4,16 17:16 19:18 20:3 24:19 30:2 40:25 43:4 44:23 45:13 68:2 74:25 75:4 165:25 asking 6:22 7:24 17:14 39:3 asks 39:16 107:16 aspect 99:17 aspects 194:15 assembly 10:19,19 10:22 assess 19:18 68:3 139:3,11 182:13 assessed 151:13,17 151:19 183:3 assessing 67:7 68:2 103:16 134:7 139:23 assessment 30:22 55:25 80:21 113:4 189:17 assigned 54:3 62:7 assigning 85:3 assignment 19:14 22:19 assistant 6:13 associated 57:13 74:5 151:25 152:3 191:20 associates 11:13 association 14:3,13 21:15 82:11 83:4 154:9 195:8 assume 57:9 113:2 116:4 156:19 194:20 assumes 156:6,15 assumption 156:22 attached 18:14,17 attempts 180:4 attending 128:10 attention 134:2 135:18 158:3	attorney 2:8 4:5 6:13 11:11 29:23 45:23 attorneys 3:5,12,18 4:7 5:4 10:3,7 11:4 11:8,16 196:4 attracted 80:19 attributed 188:18 atypical 48:11 50:9 audience 42:18 augmentation 146:3 147:6 august 1:18 2:3 124:3 197:23 author 155:24 authorization 126:22 129:9,12 authorized 5:13 authors 183:20 184:3 185:3,12 186:2,25 autism 50:24 51:5,8 51:21 autistic 51:4 automatically 133:5 136:24 available 39:8 71:8 avenue 3:13 average 51:14,15 aware 73:3 87:12,15 91:2 95:12,16,20 133:15 154:3,15,22 171:17	back 7:7,12 17:9,11 20:14 31:6 36:24 37:17 75:24 81:22 84:12 88:9 90:9 96:2 120:9 121:6 124:9 126:13 132:2 151:23 156:8 157:21,23 165:18 167:12 172:15 182:21 188:9 189:4 background 27:11 bacteria 49:2 bad 39:2 163:5 balance 195:17 balberg 33:5 banning 10:20 barbies 174:17 based 66:12 94:21 95:17 97:21 109:3 109:10 110:6,12,14 111:9,13,17,17,23 113:8 114:18 115:12,15,22 116:19 134:3,16,19 135:2,9 136:3 194:16 basically 31:25 53:11 66:11 85:3 88:23 139:23 170:19 basis 112:10 143:16 151:4 157:3 164:13 bathroom 67:3 bayer 165:10 169:24 beard 40:18 bears 183:15 becoming 175:15 began 71:10 128:22 136:21 179:19 beginning 71:12 begins 22:15 63:23 83:17 107:3 122:12 125:17 145:16 162:14 169:12 185:23
--	---	---	---

begun 179:6 behalf 1:5 128:16 behavior 48:11 99:20,20 172:11 174:16 195:17,18 behavioral 69:22 135:19 behaviors 179:12 believe 17:14 22:9 23:2 29:19 33:14 34:21 35:3 36:15 40:25 44:25 55:21 60:3 72:5,7 86:25 88:21 90:18,24 92:10 106:9 134:18 138:2,19 147:12 149:22 154:12,13 154:17,24 160:11 170:3 172:14 177:24 178:13,20 179:2 180:6 186:25 187:2,11 190:10,13 193:14 195:15 believed 187:5 belkys 3:9 benefit 59:7 benefits 182:11,12 benign 156:7 best 164:4 beta 103:24,25 104:6 better 43:13 59:8 93:3 110:12 138:14 164:8 192:20 beyer 164:12 beyond 110:18,20 115:13 152:15 178:8 183:4 188:5 188:14 big 109:23 biid 72:7 billing 21:13 128:13 binary 102:4 biological 137:6	bipolar 30:20 birth 62:7 bisexual 27:24 bit 20:15 27:10 90:10 104:14 130:23 bizarre 111:5 black 117:7 148:5,7 blanket 114:21 block 142:9 blocker 175:8 blockers 175:13 176:6 192:15 blocking 175:4,20 175:21 176:4 blood 151:20,21 197:18 bodies 50:16 70:6 70:19 162:17,17 bodily 72:3 73:15 90:25 body 10:12,15 31:13 31:15 32:3 40:15,22 48:13,14 49:22 67:16,18,19,22 70:10 71:7,20 73:14 74:4,4 76:16 80:17 90:23 91:6 97:23 130:22 136:23 140:14,16 149:7,23 149:24 150:2,12,15 150:16 151:16 175:11 boilerplate 57:21 book 33:19,20,21 42:13,20 183:20,21 183:22,24 184:4,5 184:11 185:15,20 186:21 booklet 81:25 198:19 books 27:21,22 boon's 179:5,18 born 31:13,15 32:3 40:17 80:17 85:22	137:5 150:12,15,16 162:18 bottom 25:25 63:22 69:6 71:13 108:14 127:2 142:8,11 156:3 159:11 169:10 184:15,21 190:12,25 boy 40:17 137:17 166:21 174:17 brain 100:19 break 67:3 123:12 123:14 132:3 173:2 186:16 breast 74:7 86:9 89:23,24 146:2 147:6 breasts 144:7 brief 11:25 17:7 briefly 14:7 broadway 2:9 4:8 brought 12:6 brow 86:9 buchanan 1:24 2:11 197:7,25 bullet 187:17,25 188:15 189:13 190:11,24 191:12 191:16,18 192:10 burn 144:9 burned 144:11 burns 144:15 buy 133:2,4 byne 183:18,20,25 184:2,3 185:2,12 186:2,22,24	call 17:8 56:23 72:7 103:22 120:19 121:17 140:8 153:9 176:14 called 6:2 10:2 13:16 19:23 32:6,18 33:21 48:18 56:12 56:15 59:10,20 83:3 85:9 102:20 106:12 120:18 137:4,11 154:9 163:10 184:20 194:19 calling 86:20 151:6 calls 101:16 109:13 119:23 123:3 candidate 45:3,4 capable 182:7 capacity 51:9 108:5 182:13 capital 78:14 101:11 caps 82:10 capsulate 163:18 caption 179:3 captioned 200:11 care 23:9 25:14 75:13 77:24 78:15 78:17,25 79:2,11,14 79:23 82:2,12,18,21 82:23,24 84:15 86:12,15,24 87:5,9 87:23 88:7,13,19,22 89:6 90:2 92:24 102:11,16 105:24 106:3,6,7,10 108:9 108:12 109:6 122:17 128:22 142:21 143:23 144:19 145:2,16,20 152:15 154:6,14,18 154:25 158:18 193:18 194:4,7,15 194:22 195:2 198:20 career 195:16
---	--	--	---

caregiver 77:5,23 caregivers 154:4 cares 81:12 case 6:25 7:2 9:6,12 9:14 15:15,16 43:20 56:7 105:21 107:18 107:20 112:11 114:11 143:11 cases 51:12,12 100:11 159:22 160:5 casual 64:20 cataloged 186:11 categories 28:9 89:25 categorized 56:17 category 50:8 causative 92:7 cause 47:14,16,19 49:3 53:22 62:16 92:10 caused 115:24 135:22 causes 46:21 98:20 101:6 centers 172:23 century 70:3,24 80:14 99:24 certain 19:19 51:25 62:19 65:23,24 72:10 74:12 81:9 100:10 192:12 193:21 certainly 63:19 143:14 certify 197:9,16 chair 32:25 34:14,16 34:20 chance 171:12 175:12 change 47:9 71:3,6 73:6,14 90:21,22 91:6 111:2 127:5,6 154:11 168:3 174:11 201:3,5,6,8	201:9,11,12,14,15 201:17,18,20,21,23 202:3,5,6,8,9,11,12 202:14,15,17,18,20 202:21,23 changed 32:7 67:11 187:22,24 188:23 189:21 changes 40:16 63:23 64:2 70:5 71:8 165:17 200:14,17 changing 32:10 70:7 70:19,19 137:2 chapter 70:13 186:23 chapters 27:21 characteristic 74:6 74:8,9 characteristics 73:20,21,24 74:2,3 74:15,23 90:6,8 175:7,10 characterize 16:12 56:15 149:11 charge 34:10 177:25 charged 103:15 check 151:21 cheek 148:20 chelsea 28:23 chenitz 4:11 child 34:7 37:11,19 37:25 38:5,10,14,21 39:20 40:7,8,11,13 40:20 41:16 60:20 60:21,23 134:20,21 134:23 135:3 156:20,25 157:2,19 157:23 158:25 160:24 161:4,6 163:3 164:15,16 165:13,15 167:10 167:14,23 168:6 173:11,24 174:9,12 174:21,25 175:14 175:24 176:3,22,25	183:6,8,16 188:13 199:17 child's 134:4 172:7 childhood 38:14 104:7 135:8 children 36:2,2,10 36:23 41:12 42:8,10 42:14,15,25 56:8 60:5,8,14 61:2,3 105:9 134:2 154:4 154:16,23 155:2 157:7 158:7,17 159:17,22,24 160:4 160:7,9,11,14,22 161:15,19,25 162:5 162:14,16,25 163:21 164:5,22 165:2 166:13,25 167:5,16,18,25 168:4 169:18 170:11 172:10,13 173:9,13,18 174:18 176:8,11,19 177:4,4 177:9 178:4 180:10 180:12,13,14,15,16 180:19,20,22,23 181:12,14,15 184:25 187:16,19 187:20 188:3,4,9 190:17 192:19 children's 42:22 134:19 182:25 chin 85:23 148:20 chins 85:23 choice 34:21 35:3 102:4 110:5 191:7 chose 35:7 christie 1:5 christopher 3:15 chunk 190:10 circumstance 40:5 63:7 87:13,16 circumstances 59:5 62:3,10,15 127:19 179:4	citation 184:18 cited 21:11 172:14 citizens 94:22 city 170:23 civil 15:15 clarify 13:9 173:5 class 9:8 20:23 classic 99:21 classification 101:10 clear 143:3 147:24 173:8 clearly 143:4 clerk 133:3,5 clientele 30:10 31:8 clients 83:24 clinic 34:10 36:4,5 162:21 163:8,13,15 163:25 164:2 165:4 165:6,8 167:20 170:21 172:22,22 177:24 178:2 clinical 40:9 65:25 68:19 81:14 128:12 139:24 142:13 152:13 171:15,16 171:18 clinically 57:14 68:4 72:22 clinician 65:13,17 74:19 77:5 87:14 135:11,12,14 139:9 168:13 182:23 190:15 clinician's 66:2 191:7 clinicians 64:19 79:15 147:23 154:3 154:16,22 156:4,18 157:5 158:6 160:10 160:15 161:17,19 167:17 168:8 182:24 clinics 170:19 172:18,19 174:3
--	--	--	--

[close - controversy]

Page 6

close 186:19 closest 136:8 clothing 133:2 code 102:2,3,7 195:6 cognitive 181:20 182:25 cohen 33:3 34:18 collaborative 78:8 153:4 collection 33:23 color 73:7 195:13 column 25:24,25 26:2 165:25 come 17:8 28:24,24 30:10,11 36:24 43:16,16 44:22 51:24 56:9 81:22 90:9 95:14 113:3 116:5,24 121:6 136:8 185:6 187:12 comes 19:12 65:24 65:24 110:24 135:15 136:18 143:11 164:24 174:20 comfortable 40:21 59:19 97:23 161:2 162:18 175:11 coming 84:3 comments 42:20 171:12 173:6 commissioner 1:10 200:5 committee 32:17,18 32:21,24,25 33:9,18 34:14,20,22 35:2,8 35:9 167:22 common 55:4 68:16 68:18 71:2 92:23 community 35:11 35:20,22,24 46:24 47:5 73:4 81:4 91:5 136:18 137:8 162:11	comorbid 92:18 comorbidities 49:7 50:19,20 58:14 91:23 92:5 comorbidity 44:3 48:19 49:9 58:17,20 91:11,20 companies 35:6 77:16 company 34:25 comparative 191:5 compelling 171:25 compendium 14:11 compensated 18:2,6 18:7,9,10,11 competent 152:10 competing 162:10 complaints 20:24 complete 108:25 completely 128:13 complex 157:21 complexity 148:3 complicated 114:7 116:13,20,21 132:19 133:15 157:15 component 110:13 111:12 134:15 components 143:7 comprised 16:14 compulsive 30:22 concentrating 134:23 concern 159:16 168:15 concerning 23:7 94:15 concerns 157:9,13 conclude 26:21 87:16 126:25 conclusion 22:12 112:17 118:17 119:24 conclusions 120:4	condition 50:5 51:9 53:22 57:8,12 58:23 59:2 60:3 63:19 70:6 71:4,24 72:20 94:9 102:22 109:21 109:24 190:3 conditions 43:24 48:4 70:13 92:5,18 108:3,11 conduct 195:7 conference 17:7 confident 48:5 confirmation 137:11,19 144:22 150:17 confirming 136:14 137:22,24 138:11 139:4 160:16 conforming 136:17 138:15 confused 48:9,12,15 congruence 54:2 congruent 107:23 conjunction 146:15 connotate 108:24 consensus 46:18 47:13 70:4 71:2 82:25 101:21 163:24 165:3,5 176:7 consent 108:6 126:4 152:8,11,20,22,24 153:9,18 159:3,7 181:23 182:5,6,14 183:2 consequences 158:3 conservative 165:4 165:6 consider 101:20 111:9 112:5,20 113:15 114:2 150:23 195:3 considerations 64:15	considered 20:23 21:6,8,20 22:4 24:14,17 41:8 109:23 145:24 146:4,23 147:7 148:10 173:11 considering 140:3,6 157:10 consistent 92:23 107:7 108:8 170:13 193:15,17 194:4,7 194:22,25 constitute 99:19 constitutes 142:15 164:4 constructive 149:18 150:23 151:5 contacted 17:3 contain 78:17 contained 18:18 content 184:17 context 43:10 60:14 77:12 84:3 96:17,22 96:24 97:7,10,11,24 98:15 99:8 100:7,9 100:12,22,24 119:8 143:25 146:24 148:14,23 149:9,15 166:11 181:13,25 continue 108:21 144:12 185:5 continued 111:3 continues 60:23 190:22 contraindication 108:4 contrast 70:17 84:23 143:18 contribute 46:19 control 192:21 controversies 42:24 173:18,19,25 controversy 173:20 174:5
---	---	--	--

[convenient - delusional]

Page 7

convenient 92:14 conventional 31:12 50:11 conversion 10:20 conveyed 134:7 copied 53:7 copies 123:15 copy 89:5 183:24 196:3 corner 82:9 correct 20:24 25:18 26:14,17,19 29:19 29:20 41:16 52:7,11 55:23 57:10 62:17 62:23 64:22 68:23 73:11 75:15,20 79:10,24 80:6 86:18 86:24 88:24,25 89:4 91:7 104:17,21 105:14,23 117:12 117:22 122:8,19 135:24 137:9 142:10,20 149:2 161:9 170:16 183:22 185:2,15 187:3 188:25 189:5 190:18 194:8 correction 178:23 corrections 200:14 correctly 34:13 52:4 117:24 157:6 164:12 193:25 correlation 50:25 51:19,20 52:5,6 correlations 50:23 correspond 86:16 corresponded 87:24 cosmetic 20:12 22:21 24:21,21 25:22 26:10,22 85:9 85:12 86:21 88:2 108:23 109:14 110:2,9,18,25 111:20 112:18 114:17 115:4,5,7	117:20 118:9,23 119:11 120:19,19 120:20 121:3 123:3 127:3 140:5 143:5,7 143:12,14,19 145:25 147:18 148:9,25 149:5 194:19 cough 48:25 counsel 6:14 20:3 counseling 107:25 count 155:14 county 197:5 couple 11:13 153:19 193:10 course 14:14 23:4 40:22 77:19 116:9 154:19 163:6 176:22 195:15 court 1:2 5:16 7:2,6 7:13 8:5,9,14 11:2 15:7,14 16:8 17:8 24:3 82:6 121:13 122:13 124:10 155:12 168:21 183:12 cover 47:2 coverage 19:20 20:7 22:6 23:8,8 26:21 119:21 122:16 127:10 128:2 covered 22:19 126:2 126:20 190:10 194:21,24 covers 42:3 create 97:15 created 150:5 criteria 31:18 48:2 52:11,15 53:4,4,6 53:20 54:8,16,24 55:17 56:12,14,19 56:22 57:3,19 58:8 58:12,17,19 59:13 61:9,10,11 63:24 64:3,4,8,10,15,17	65:2,4,10 67:20 72:14 83:20 84:8,18 84:21,25 85:2,5 87:6 96:11 104:13 104:16 105:8 130:11,18,19,20,23 134:18,25 135:17 139:22 173:15 criterion 53:8,9,9,11 53:16,17,18,24,25 54:25 55:21 56:2,11 56:24 57:4,20 64:24 64:24,25 65:3 130:9 130:17 cross 50:14,16 162:25 163:5 168:2 168:11 172:11 174:16 176:21 177:10,22 178:5 cruz 1:4 12:5,5,8 15:15 200:4 cuff 171:7,8,9 cultural 97:11 99:8 99:17 100:7,9,12 110:13 111:12,18 culture 96:25 100:17 cultures 100:15 current 14:19 61:4 103:6 108:17,21 currently 31:22 46:16 109:23 curriculum 18:13 18:17,22 19:6 cut 100:15 cv 1:9	date 15:6 16:7 24:2 82:5 121:12 124:8 124:14 155:11 168:20 183:11 201:24 202:24 dated 16:13 121:18 124:6 155:9,17 168:18 169:4 199:6 199:10,14 dating 9:16 day 66:18 98:11,11 196:11 197:22 200:21 dealing 27:22 43:19 dealings 29:15 december 21:5 24:10 decide 74:19,25 75:18 77:16 103:17 decides 62:5 75:3,9 decision 87:11 108:6 117:3 158:24 161:5 169:16 175:13 decisions 83:25 117:7 170:20 declaration 200:8 declare 200:9 declining 153:16 deemed 20:12 107:25 108:23 110:2,3 deems 22:21 25:21 defendant 1:12 4:7 6:14 15:16 defendants 126:5 deficit 134:2 define 95:2 defining 120:15 definitely 52:2 definition 120:18 degree 66:8 145:25 147:5,16 179:13 delusion 49:22 delusional 50:2
--	---	---	---

demonstrate 93:5 demonstrating 72:22 department 1:11 19:22 23:7,15 25:6 29:16 121:17 122:14 124:12 133:2,6,8,10,10 200:5 depend 56:2 59:15 66:3 131:23 132:16 dependent 131:4 depending 61:5 63:14 78:5 150:19 170:21 depends 131:21 132:8 133:21 deposed 8:25 9:4,7 deposition 1:16 2:6 5:12 11:5,21 12:2,8 14:15 23:5 106:15 106:18,19 197:11 197:13 200:2,11,15 201:2 202:2 depressed 58:16,18 58:18 176:5 depression 30:20 41:21 43:18 55:5,7 58:4,10,15 66:15 68:14 69:24 79:21 91:25 98:20 139:19 153:11 depressive 58:16 69:25 91:25 92:11 deprive 101:22 describe 20:2,19 55:22 88:14,22 160:17 described 37:4 48:19 56:17 58:13 76:20 86:15,23 87:17,22 151:3 describes 53:12 describing 32:2 86:11	desire 64:18 72:25 109:4,11 110:14,17 111:10 115:22 116:19 131:2 desired 138:3,17 desires 110:7 111:23 desist 61:2,3 157:2 163:4 170:14 175:7 176:2 desistance 157:19 desisted 168:7 desister 60:17,20 175:15 desisters 187:21 desisting 175:23 detached 51:11 128:13 determination 77:6 77:24 80:4 113:5,9 113:21 116:17 148:4 determinations 78:18 determine 76:19,21 147:16 determining 99:19 develop 40:18 175:6 development 74:5,7 87:9 162:2 163:7 170:24 devotes 142:14 diagnoses 14:11 30:16,18 48:8,21 49:4,11 57:18 69:20 70:16 71:23 99:8 100:14,20 102:5 103:16 133:24 134:15 135:8 136:3 173:10 diagnosing 52:15 diagnosis 12:25 13:4 14:12 19:10 31:19 32:5,8 47:22,24 48:5,22,22 49:5,7 49:16 50:6,17 52:12	53:19 54:18,23 55:3 55:5,7,11,20 56:20 57:21,23,23,24 58:2 58:3 59:20,23 65:9 66:7,9,11,14 69:12 70:8,11 71:14,16,19 72:11 73:12 90:14 91:3 97:16 98:2 99:13,14,16,22,23 100:3,8,19,21,23 101:18,22 102:2,5 102:10,12,14 104:6 104:16,19 105:8 129:24 130:2 131:21 132:7,16 133:21,21,25 134:8 134:12,14 135:2,7 136:3,10,11 170:25 diagnostic 13:25 14:9,16 47:25 54:24 59:13 63:24 64:2,7 64:10 96:10,11 100:6 104:2,13 134:25 135:17 173:15 dialogue 155:8,16 172:16 199:9 diane 1:24 2:10 8:5 197:7,25 died 110:23 dies 66:20 differ 28:4 104:2 difference 60:7 97:25 104:11 125:12,15 156:25 164:3 differences 98:25 different 40:9 43:11 58:2 60:5 61:21 67:14,19,21,24 70:21 73:2 97:19 104:9,14 130:24 161:12,14 162:21 163:2,20 170:22 171:15 173:10,11	173:15,16 174:3 180:24 182:5 191:14 differentiate 115:21 differently 95:2 171:13 difficult 8:5 139:6 difficulty 134:21 diminish 139:20 diminishes 59:4 direct 118:20 130:12 133:5,9 directed 119:12,20 120:16,23 direction 157:15 directions 198:7 directly 53:7 62:17 118:21 disagree 99:7 disapproval 100:10 discomfort 32:2 48:14 discourage 167:25 172:11 174:15 discourages 162:24 discriminatory 9:18 discuss 79:22 discussion 90:13 147:4 183:9,17 199:19 discussions 167:17 disease 100:19 diseases 101:10 disorder 13:12,20 30:21,21 32:6,10 33:8,16 34:18 48:13 51:4,6 53:21 69:25 70:12 72:4 73:16 91:2 96:12 101:5,6 101:9,13 102:12 disorders 13:25 14:10,12,17 30:23 30:24 50:25 51:21 53:24 91:25 92:2,2 92:3,12 103:2
---	--	---	---

[disregarded - dysphoria]

Page 9

disregarded 154:7 154:18 distance 7:9 distinction 41:11 50:5 89:4 143:3 151:25 distinguishable 95:22 distress 53:19,22 56:16,22,23 57:3,14 57:22,23 58:3,5 61:24 68:4,13,16,20 69:2 72:14,18,23 97:6 98:16 139:19 151:25 district 1:2,3 6:25 15:14 diverge 145:25 146:9,10 147:5 divergence 147:15 divided 89:22 doctor 27:14 46:2 48:24 81:7 doctors 45:12 81:9 100:3 102:6 document 14:4 15:8 15:10,18 16:15,17 16:23 23:23 24:4,6 24:8,11,17 25:3,10 25:19 82:7,25 83:5 83:7,9 105:22 121:10 122:2 124:5 124:12,15,17 155:14,18 168:22 178:21 183:13 198:17 199:3,5 documented 107:18 documents 21:20 24:13 105:6 121:21 doh 108:17,21 doing 109:5 116:3 120:20 136:25 153:8 163:15 172:13 192:6	door 172:8 double 144:7 downstate 29:19,22 128:8 dr 6:19,20 15:7,18 16:8 17:11 24:3 27:10 34:3,5,13,19 35:7,11 36:13,15,19 67:5 82:6 99:6 102:23 120:9 121:13,20 123:7 124:9 129:22 155:12 165:8 166:15,18,20,21 167:3,19 168:21 170:23 178:2,8 183:12,19 184:2,3 185:2,12 186:2,18 186:24 195:3 196:2 drapetomania 99:22 drescher 1:16 2:6 3:6 6:1,10,18,19,20 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1,4,5,7,8,12,17 15:19 16:1,4,5,6,8 16:10,13,24 17:1,11 17:13 18:1,8 19:1 20:1 21:1,21 22:1 22:11 23:1,22,24 24:1,3,5 25:1 26:1 27:1,7,10 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1,21 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1,21 64:1 65:1 66:1 67:1 67:5 68:1 69:1,5 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1	78:1 79:1 80:1 81:1 81:24 82:1,4,6,8 83:1,11,14 84:1 85:1 86:1,4 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 99:6 100:1 101:1 102:1,23 103:1 104:1 105:1,22 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1,9 118:1 119:1 120:1,9 121:1,9,11,13,14,20 121:22 122:1 123:1 123:7 124:1,6,9,11 124:23,25 125:1,4,5 125:7,13,13,16 126:1 127:1 128:1 129:1,22 130:1,14 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1,8 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1,10,12,13 156:1 157:1 158:1 159:1,8 160:1 161:1 162:1 163:1 164:1 164:11 165:1 166:1 167:1 168:1,19,21 168:23 169:1 170:1 170:23,23 171:1 172:1,15 173:1 174:1 175:1 176:1 177:1 178:1,21 179:1 180:1 181:1 182:1 183:1,10,12 183:14,17,19 184:1 184:10 185:1 186:1	186:18 187:1 188:1 189:1 190:1 191:1 192:1 193:1,13 194:1 195:1,3 196:1 196:2,8 197:10 198:4,13,16 199:2 200:20 201:25 202:25 drescher's 178:9 dress 50:14,16 dropping 7:8 drug 141:20 drugs 145:8 177:22 dsm 14:15,20,21,23 14:24 19:10 32:5,8 32:12,15 34:23 35:2 35:9 48:8 52:8,13 52:16 53:7,7,19,24 56:20 57:21 59:9,23 61:9 64:4,14 65:4 69:24 71:21,22 72:8 100:25 101:3,17,18 102:15 104:2,14,16 104:16,17 130:11 130:18 167:21 173:10 due 70:7 duly 6:3 197:12 duration 54:4,9,11 64:12 dutch 93:6 162:20 163:2 164:2 167:20 171:24 172:22 175:18 178:14 188:8 191:25 192:18 dysfunction 33:10 53:19 97:6 dysmorphic 48:13 dysphoria 12:15,18 12:21,25 13:4,5,8 13:15,18 19:21,23 20:9 25:9 31:17,19 31:21,22,24 32:7,11 35:12 36:7,8,11,22
--	---	--	---

37:4,5,10,10,19,24 37:25 38:22,23 39:6 39:9,21,24 40:10,15 40:19 41:2,6,14,25 42:6,7 43:18,21 44:2,7,10 45:5,16 45:18 47:15,16,19 47:23,25 48:6,10,12 48:15 49:8,10,13,17 49:23 50:4,13,17,18 50:21,24 51:3,21 52:12,16 53:12,15 54:19 55:3,12 57:4 57:5,9,13,18,25 58:22,24 59:3,8,13 59:17 60:2,9,15,21 60:23 61:9,17,18,23 62:9,23,24 63:11 65:14 67:8 68:3,21 69:3,7 70:21,25 72:15,21 73:15 74:18,21 75:16,23 76:2,14,14 77:3,13 77:23 78:2,22,23 79:10,16,19 80:3,5 85:14 87:15 89:17 90:14 91:10 92:6,17 93:9 95:23 96:9,16 96:21 97:3,4,12,21 98:12,16 99:2 100:22 101:13 102:14,21 104:3,9 104:20 105:3,18 106:8 107:18 109:20 113:12,14 113:17,20 114:10 115:20,25 116:8 119:2,4,8 131:21 132:8,10 133:13 134:12,19 135:21 135:21 136:12 138:22 139:14 140:16 141:8,25 144:2,4 146:16,24 147:11,13 148:9,14	148:24 149:16 151:2 152:7,9,14 153:22,23 154:5,17 154:24 155:2 157:7 157:20 161:15 164:22 168:7 170:25 173:13,14 174:21 175:25 177:6,17 180:3,10 182:2 187:18 195:5 dysphoria's 71:13 dysphoric 40:17 42:10 60:10 62:4,12 74:18 139:10 158:7 161:25 162:5,13 163:21 164:25 174:25 184:25 185:7 e e 3:2,2 4:3,3 6:2,2 46:12 99:23 106:12 121:9,11,15 124:2,2 124:25 125:5,14 178:2,2 197:2,2 198:2 199:3 earlier 10:5 14:24 22:8 48:18,19 52:8 68:2 79:25 86:7 151:24 167:20 169:16 172:14 179:3 181:8 191:14 193:14 early 70:24 136:21 156:4,19 157:5,11 158:14 160:7 161:5 167:6 170:5 earned 34:23 easier 8:10 175:5 easily 116:23 132:20 edit 171:12 edited 27:22 33:19 33:24 42:13 183:17 editing 34:2	editors 165:24 183:21 184:5 186:22 educate 153:5 effect 5:15 effected 51:10 effective 25:15 27:6 effects 153:14 192:13 effort 78:8 eharmony 9:11,19 9:20 10:4,10 eharmony.com 9:9 ehrensaft 178:2 eight 17:23,25 155:14 187:17 eighth 159:9 either 10:25 23:5 42:8 45:11 69:21 71:25 75:12 141:14 141:19 153:16 175:3 192:12 elaborate 27:19 65:9 electroconvulsive 129:2 electrolysis 115:11 element 54:17 elevate 184:7 emerges 55:19 empirical 164:6,13 171:21 employ 189:16 employed 29:18 36:13 91:4 employment 29:21 encourage 156:4 157:5 endocrinologist 46:5 75:13 engage 179:12 engaged 30:6 42:6 103:6 enhance 113:24 149:2	enter 177:5 entire 34:17 200:10 entirely 56:3 105:4 entitled 23:23 81:25 121:10,16 124:5 155:6 168:16 183:7 198:17,19 199:3,5,7 199:12,16 entity 102:20 equally 157:21 equivalent 70:11 72:21 eric 4:6 errata 200:2,16 201:2 202:2 escape 100:4 esny 15:16 esq 3:9,15,21 4:10 4:11 essence 171:13 essentially 104:15 established 78:3,4 163:13 estimation 94:7 et 200:4 ethic 98:9 ethical 43:2 ethically 77:20 ethics 152:23 153:2 153:3 evaluate 65:14 evaluated 60:15 135:4 evaluation 66:3 95:17 eventually 184:19 everybody 47:3 161:13 168:10 evidence 164:6 191:19 ex 33:21 exacerbate 70:2 exacerbation 63:10 exactly 58:19 67:13 136:6
---	--	--	--

[exam - first]

Page 11

exam 151:16 examination 6:6 198:3 examined 6:4 110:23 example 40:8 48:24 49:21 50:14 55:4,15 59:9 63:9,20 64:12 64:16 66:15 68:25 69:2,23 73:2 80:20 85:21,24 99:21 100:4,24 111:7,21 113:7 115:10 128:25 131:3 133:25 136:10 137:2,12 148:18 153:11 157:18 160:2,10,12,21 161:7 166:16,19 examples 72:13 80:25 88:14 exception 126:11,16 exceptions 77:20 excluded 20:11 34:25 excludes 22:20 25:21 127:3 exclusion 26:21 108:22 exclusionary 48:7 48:20 exclusions 19:19 20:7 22:6 74:12 exhibit 15:5,9,13 16:4,6,9,10,24 17:13 18:8,15 19:13 21:22 22:11 23:22 23:25 24:5,24 27:7 52:21 63:22 69:6 81:24 82:4,8 83:11 83:14 86:4 105:23 107:14 117:9 121:9 121:11,15,23 124:7 124:11,24,25 125:4 125:5,7,13,14,16	126:6 129:22 130:14 142:8 155:5 155:10,13 159:9 164:11 168:19,23 172:16 178:22 183:10,14 184:10 193:14 198:14,15 198:17,19 199:3,5,7 199:12,16 exhibits 198:12 exist 92:21 102:21 existing 122:16 191:18 expensive 129:5 experience 31:14 54:2 61:7 65:18,23 65:25 87:13 95:23 96:20 97:22 98:11 98:13 106:20 130:21 137:16 152:13,13 179:10 179:21 188:17 experienced 61:17 72:13,19 experiences 98:9 experiencing 59:17 67:13,15 expert 6:23 9:10 16:19,21 18:3 19:19 22:11 23:18 24:14 24:18 31:20 36:12 52:20 69:5 83:10 111:19 117:2 118:14 120:3 121:22 expertise 10:8 27:12 27:15,17 28:3,6,7,9 28:10 37:2 51:8 79:16 experts 42:18 71:2 169:12,15 explain 42:16 174:7 182:21 explained 182:9	exploration 41:24 42:2 explore 128:4 express 67:6 expressed 54:3 expressing 100:9 expression 65:19 expressions 28:14 extent 66:2 112:2 188:17 external 62:10 150:10 extreme 174:15 eyes 151:22 f f 124:2,7,11,24 125:4,7,13,16 126:6 178:2 197:2 199:5 face 86:10 facial 74:6 83:22 84:10,20 85:8,13 88:8,11 89:3 111:5 146:3 147:6 fact 134:19 185:3 194:21 factor 188:11 factors 46:19 181:22 188:9 191:6 facts 190:5 faculty 128:12 fair 92:17 114:14 149:11 163:17 familiar 14:3 73:19 79:15 82:20 94:25 98:3 106:2,5,11 129:6,14 180:25 184:13 familiarity 128:5,15 families 158:24 family 56:9 62:8 far 187:23 188:6 farr 3:11 11:11,14 features 74:4	federal 7:2 122:13 feel 32:2 50:15 59:18 66:17,18 137:13 139:16 149:25 163:5 175:11 184:11 feeling 54:15 64:20 64:21 76:15 130:3 feelings 42:2 48:11 64:13 67:10,11 68:15 feels 85:14 131:24 132:17 137:9 felt 65:3 80:18 166:23 female 46:14 86:2 89:21,22 115:10 feminization 146:3 147:7 feminize 85:15 feminizing 83:21 84:9,19 85:7,12,16 85:20 88:8,10 89:3 field 34:3,5 47:13 52:17 142:24 fifth 190:24 filed 122:13 filing 5:5 final 105:5 108:16 137:8 150:4 161:3 find 9:20 51:17 63:15 171:24 172:3 195:16 findings 95:21 finds 57:24 finish 7:24 36:25 45:21,24 104:24 123:8 141:16 165:9 finished 186:19 first 15:12 24:6 25:11 35:3,5 53:2 58:25 59:23 83:16 89:20 120:18 121:15 124:13,20 129:23 155:20
---	--	---	---

[first - gender]

Page 12

156:3 162:24 163:18 183:14 184:15 186:6 191:17 192:10 193:12 fit 31:15 50:8 135:16 fits 116:14 five 11:18 130:19 fix 150:16 fixed 47:11 flip 22:10 159:8 184:14 185:5 188:15 189:7 192:8 fly 184:16 focus 24:19 focusing 117:16 follow 117:17 152:18 194:14 followed 154:20 following 26:4,16 54:5 69:19 93:8,10 94:16,18 117:19 122:25 125:9,23 126:18 171:16 follows 6:5 69:16 84:24 142:16,20 force 5:14 forehead 86:10 forget 71:18 95:11 form 5:8 38:7,24 39:25 46:19 49:19 53:12 54:20 55:13 56:18 57:22,25 58:5 61:13 70:22 73:8 76:4,23 79:13 84:11 85:10 90:17 92:20 95:25 96:18 104:4 105:10 111:15 112:7,23 114:4 119:23 120:25 128:20 138:4 149:3 158:9 181:24 formally 163:13	format 104:13 105:5 165:22 formed 46:10 forming 120:2 forth 197:12 forthcoming 101:9 forward 27:2 190:9 found 10:7 22:6 71:25 101:3 four 11:17,18 23:23 24:8 189:12 198:17 fourth 91:15 189:12 191:18 francisco 163:14 177:24 freda 33:4 free 184:11 frequency 64:7,10 64:11 friday 11:19 124:22 front 82:8 107:13 full 83:16 108:6 129:23 142:12,23 fully 83:25 138:5 167:5 function 53:23 68:9 68:9 80:7,8,8,12,23 81:2,8,16 93:22 139:21,25 functioning 57:16 68:13 72:25 funding 35:6 furnished 198:9 further 5:7,11 195:19,24 197:16 futile 71:5 future 71:23 162:19	39:12,25 45:20 49:19 54:20 55:13 56:18 61:13 70:22 73:8 76:4,23 79:13 84:11 85:10 89:9 90:17 91:13 92:20 95:25 96:3,18 104:4 111:15 112:7,23 114:4 119:23 120:7 120:25 123:6,13 126:7 127:4,12,22 128:20 130:12 131:25 133:23 138:4 140:17 142:2 146:25 147:19 149:3 150:7 153:24 156:17 158:9,20 161:16 162:3,6 165:9 170:4 172:20 172:25 175:16 178:7,17 179:15,24 181:24 182:3 183:4 186:7 194:9,23 195:21,24 gasior 4:10 6:7,12 15:3 16:3 17:5 20:13 23:21 45:21 67:2 81:23 91:15,18 119:25 121:8 123:7 123:9 126:12 132:3 147:2 155:4 173:3 186:15 193:8 195:19 198:4 gatekeeper 80:7,11 81:20,21 gatekeeping 80:12 80:23 81:2,8,16 gay 9:15 27:23 33:21 166:23 gd 12:16,20 13:5,22 69:11 70:5,18 91:20 102:16 129:24 130:3 185:8 187:16 187:19 188:4,13,18 188:19 189:9,15	190:16,23 192:11 192:21 gender 12:15,17,20 12:25 13:4,5,8,11 13:15,18,19 19:10 19:20,21,23 20:7,9 22:6,19 25:9 27:16 27:18,20 28:5,7,21 28:25 29:3 30:12 31:2,7,8,9,12,17,19 31:21,22,23 32:6,7 32:10,11,13 33:8,11 33:15 34:12,18 35:12 36:7,8,11,17 36:22 37:4,5,9,10 37:19,24,25 38:22 38:23 39:6,8,21,23 40:10,15 41:2,6,14 41:25 42:6,7,10,19 43:6,17,21,25 44:7 44:9 45:5,16,18 46:8,10,14,15,20,22 47:2,8,11,14,16,19 47:22,24 48:6,10,11 48:12,15 49:7,10,13 49:17,23 50:4,9,12 50:13,17,18,21,24 51:3,20 52:12,16 53:15 54:3,3,9,19 55:3,11 57:4,5,9,12 57:18,25 58:22,24 59:3,8,13,18 60:2,9 60:9,15,21,23 61:9 61:17,18,23 62:4,6 62:8,11,22,24 63:10 67:7 68:3,21 69:2,7 70:20,25 71:13 72:15,21 73:14 74:17,18,20 75:16 75:23,25 76:13,17 77:3,12,23,25 78:22 79:9,16,19 80:3,5 82:3,14 85:14 87:14 89:17 90:13 91:10 92:6,16,19 93:9
---	---	---	---

94:16,17 95:23 96:9 96:12,16,20 97:2,3 97:12,20 98:12,15 98:22 99:2,13 100:21 101:13,17 102:14,21 104:3,6,7 104:8,19 105:3,17 106:7 107:18,20,20 107:23,24 108:4 109:2,18,20 111:8 111:21 113:7,12,14 113:16,20 114:9,15 115:20,25 116:8 119:2,4,8 130:4,5 130:21 131:2,7,9,21 132:8,9,21,24 133:7 133:13,14,16,18 134:10,11,12 135:21 136:11,14 136:17,20,24 137:3 137:8,10,10,11,22 137:24 138:3,11,15 138:17,22 139:4,10 139:14,16 141:8,24 143:2 144:2,4,22,23 146:15,24 147:10 147:11,13 148:8,13 148:24 149:16,25 150:20 151:2,11 152:2,7,9,14 153:21 154:5,17,24,25 155:9,17 156:8,16 157:7,20,24 158:7 159:17 160:14,16 160:17,24 161:15 161:24 162:4,13,25 163:5,6,10,11,21 164:22,25 165:14 165:16,18 166:12 168:2,7,11 170:25 172:7,11 173:13,14 174:13,16,21,25 175:25 177:6,17 179:6,11,19,22 180:3,10 182:2	184:25 185:7,7 187:18 188:20 193:22 194:3,5 195:5 198:22 199:10 genders 174:18 general 2:9 4:6 6:13 25:4 32:4 42:17 46:7 90:19 100:22 139:13 142:25 180:5 general's 29:24 generalized 56:12 generally 42:3 52:16 53:9,17 genital 88:23 89:23 145:23 genitals 74:3 germany 33:5 gesture 7:19 getting 164:8 182:11 182:12 gid 64:4 girl 109:18 111:8,22 113:7 137:17 168:17,24 199:13 give 7:18 8:18 10:2 10:16,22 11:20 15:25 18:3 19:18 20:3 43:10 90:19 100:3 176:5 177:19 182:5 183:2 193:8 195:21 given 10:11 69:25 99:24 168:3 197:14 giver 154:23 giving 9:24 175:24 go 48:24 50:3 102:6 131:8 133:11 134:20 151:23 159:4 164:10 170:21 175:9 goal 76:2,7,12 138:15	goals 107:20 172:4 goes 54:15 97:16 going 6:21 8:2 12:13 19:17 41:11 43:22 68:7,12,25 76:19 81:11 117:3 118:7 121:4 131:16 153:6 153:10 163:4 173:23 175:2 190:8 good 6:12,19,21 11:23 17:6 93:12,21 93:25 123:13 140:24 189:24,25 190:10 195:16 granted 133:18 grasp 116:9 great 11:24 greater 40:20 62:25 180:7 green 166:21 grew 166:23 group 32:13,19 33:8 33:12,15 34:17 38:2 56:6 101:19,21 102:25 103:5,8,10 103:12,13,15 166:12 188:8,11 192:21 groups 180:24 181:9 grow 160:11 166:22 169:18 170:11 growing 137:7 growth 40:19 145:8 guess 18:25 53:14 110:22 guidance 11:20 21:13 65:11 126:9 126:25 127:7,9 guide 190:8 guided 66:6 guidelines 70:9 79:7 guilty 127:15 gv 185:8 187:16,19 188:4,13,18,19 189:9,15 190:16,23	192:11 gwg 1:9 h h 6:2 78:14 82:10 106:12 168:19,23 178:2,22 199:12 hair 74:6,7 145:8 half 70:3 hand 82:9 100:13 165:12,14 197:22 handed 15:8 16:9 24:4 82:7 121:14 124:10 155:13 168:22 183:13 happen 62:16,21 81:4 161:8 182:18 182:20 happened 179:19 happens 139:18 168:5 happy 45:23 harm 160:22 harmful 166:18,24 harmlessly 165:17 167:12 hayes 106:12,13,16 106:20,22 head 7:17,17,20 167:20 header 24:9 heading 22:12 69:7 189:8 health 1:11 21:16 23:7 25:6 27:23,23 28:16,16 29:16 44:21 70:14 80:7,9 80:14,20 82:2,12,13 83:4,23 101:7 102:24 103:2,7,20 107:25 108:3 121:17 122:15 124:12 154:4 157:16 198:20 200:6
---	---	--	--

health's 19:22 23:15 healthcare 59:22 154:23 hear 7:10,15,16,16 34:13 166:4 heard 60:16 hearing 11:2 held 2:7 help 75:23 76:19,22 125:5 134:7 153:13 190:8 191:11 helped 170:24 helpful 78:10 79:6 96:6,8 158:23 helping 10:9 83:24 158:24 helpless 66:18 hereinbefore 197:12 hereof 200:16 hereunto 197:22 hesitate 140:5 heterosexual 80:24 heterosexuality 154:12 higher 51:2 180:4 highly 131:4 hinamiya 33:5 history 67:9 hold 29:6 154:5 holland 177:18 homework 134:24 homosexuality 99:14 100:6 101:18 154:10,11 185:19 hoops 127:17,21 hope 43:14 186:20 hopeless 66:17 hormonal 73:13 176:21,22 190:16 192:15 hormone 45:13 93:24 107:15,19 177:4 hormones 45:9,18 46:2,4 63:16 71:8	91:6 107:22 141:7 176:20 177:10,19 177:22 178:5 hospital 128:23 hospitalized 129:2 hour 18:12 hours 11:17,18 17:23,25 howard 1:10 200:4 hum 12:12 57:2 125:10 143:22 169:5 human 28:14,14 humble 172:3 hurt 166:14 hyperactivity 134:2 hypothetically 140:18,20 hypotheticals 114:6 i i.h. 1:4 icd 19:10 70:10 101:11 102:4,7,8 103:17,21,23 104:12,22,23,25 105:5,13,14,16 167:21 idea 54:11,13,21 64:18 65:7 87:11 161:2 idealization 140:14 ideally 138:21 ideation 180:7 identification 15:6 16:7 23:25 82:5 121:12 124:7 155:10 168:20 183:10 identified 26:9 160:7 188:10 identify 188:8 identity 13:11,19 31:3,7,10 32:6,10 33:8,11,15 43:6	46:9,10,15,20,22,23 47:8,11 72:3 73:16 90:25 96:12 107:24 134:10 172:8 195:10 ignorance 29:13 iii 101:3 imagine 112:13 immediately 95:14 immune 111:23 impact 38:8,10 39:22 132:12 impair 8:22 impairment 53:23 56:16 57:15,22,24 58:3 68:5,13 72:14 72:18,23 implemented 178:15 implications 40:23 84:2 101:12 153:15 157:11 167:6 implicitly 156:6,15 important 57:16 72:24 83:24 158:19 impossible 169:17 170:10 improve 109:4,11 109:17 110:10,14 111:24 112:4,20 113:11,25 115:22 118:24 139:21 improving 118:10 119:3,7,13,20 120:16,24 125:22 126:2,19 inability 58:10,11 inadequate 63:9 incarcerated 63:14 63:17 incidence 98:25 180:4 incident 131:10 include 19:5 44:10 58:7 66:16 102:7	included 41:20,22 41:25 64:14 143:9 includes 102:4 including 24:22 26:11 91:12 117:21 148:2 inclusion 100:25 incongruence 54:10 54:15 67:6,12 76:15 76:20 104:7,8 152:2 increased 93:2 98:20 independent 19:18 indicated 200:15 individual 53:13 56:4 59:15 79:25 107:17,21 112:3,10 130:3 132:12 139:5 157:3 188:13 individual's 46:13 47:8 70:10 108:24 109:3 118:11 119:13 120:17,24 125:23 131:6 individualized 138:25 individuals 29:3 30:15 37:18,23 42:5 45:15 62:13 111:23 112:14 127:19 131:22 132:9 179:10 infection 49:2 inflating 132:15 influence 97:2,5,12 181:22 influenced 96:21 influx 163:22,25 information 18:18 96:15 134:3,7 135:15 158:25 170:2 184:18 185:22,25 186:4,10 190:7 198:6
---	--	--	--

[informed - kind]

Page 15

informed 38:4 83:25 108:6 153:9,18 159:3,6 inhouse 105:6 initiated 175:21 179:11 inner 46:13 input 112:14 114:22 instance 190:2 instruments 189:17 insurance 77:15 110:3 113:18 insuring 140:14 integrity 72:3 73:16 91:2 intended 73:14 74:14,14 intensely 55:17,20 intensity 62:22,24 63:3 64:7,9,12,22 64:23 65:2,15 66:3 interactive 132:21 interdisciplinary 183:9,16 199:18 interest 162:25 163:5 168:2 interested 101:2 162:22 197:19 international 83:2 101:10 internist 46:5 internists 75:13 interpersonal 51:10 interpretation 118:21 interpreted 49:23 intersected 28:8 intervention 177:11 interventions 69:22 76:10,13 78:10 89:24 119:6 173:23 174:20 176:9,10 interview 171:5 interviewed 10:5	introduction 100:5 100:8 184:15,20 invested 175:19,20 invite 166:7 invited 10:16 42:16 42:18 165:23 involve 58:10 132:14 173:21,22 174:10,16 involved 78:21 99:18 148:3 involvement 9:24 involves 71:16 130:3 134:10 involving 45:8 irrelevant 166:25 issue 31:10 42:9 81:14 95:8 116:20 116:22 118:24 142:5 148:5,7 162:12 185:19 issued 15:13 25:5 issues 27:15,20 28:20,24 29:4 30:11 31:2,9 34:11 35:12 43:2,5,19 79:18 161:23 item 22:4 90:3 iteration 14:6 iv 32:15 35:9 64:4 65:4	52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1	jack 1:16 2:6 3:5 6:10,18 15:17 16:5 16:12 170:22,23 183:17 196:8 197:10 198:4,15 200:20 201:25 202:25 jackson 110:24 jersey 10:17,19 job 11:24 109:19 111:8,22 john 4:10 6:12 journal 33:24,25 185:19 journalist 171:5 jsr 1:9 jump 117:20 127:17 127:20 145:14 june 124:6,14 126:6 126:8,24 127:9 155:9,17 168:18 169:4 178:24 199:6 199:11,15 justification 114:21 126:3,21
			k
			k 6:2 katherine 179:5,18 keep 7:12 17:9 134:24 135:17 kenneth 33:2,17 kettinis 33:3 34:18 167:19 kid's 93:22 kids 93:11,12 175:25 176:6 kill 68:25 kind 10:12 30:18 43:11 45:7 49:15 63:4 65:23,24 67:19 85:17 86:2 91:23 96:13 101:25 104:13 119:5 131:10 133:11,12

[kind - looking]

Page 16

137:13 141:7 144:8 164:21 166:15 177:10 182:14 kinds 38:9,21 39:7 39:18,22 49:17 58:9 72:13 78:20 98:8 161:12,14 174:3 kings 197:5 kinhead 3:21 know 7:4,11 13:8 17:12 33:17 34:5,19 37:13,15 38:20,22 42:17 51:14,23 53:15 54:14 62:6 65:8,20 67:10,20 68:23,23 75:7 79:19 79:21 81:5,5,6 84:25 88:16,18 95:7 97:9,13,15 98:24 99:5,15 101:6 105:5 109:22 112:10,12 114:8 116:2,7,11 120:5 124:24 127:23 129:10,13 131:8 132:25 133:3 133:3,8,15 138:6 139:7,24 141:22 142:3,4 146:8,9,11 147:20,21,23,25 151:18 152:4,12,17 153:25 154:21 155:3 157:18 158:19 160:3,4,6,16 161:3,18 163:3 165:22 166:11,14 166:15,16 167:16 168:4,9,11 170:14 173:23 174:11 175:19 177:20 178:14 180:9 182:4 185:8,24 186:23 187:17,23 188:6 189:9 190:13,24 192:3	knowing 116:7,7 135:3 knowledge 35:10 65:24 71:15 73:17 73:18 92:4 105:11 164:9 171:20 177:8 177:13 186:5,12,13 191:11 192:17 193:2,3 known 47:17 knows 46:21 156:24 kpaka 1:5 I I 21:3 22:20,24 23:6 23:16 25:20 27:3 46:12,12 74:11 107:7,12 108:19 109:5 113:24 117:10 lack 64:6 lacking 191:5,22 ladin's 159:16 laid 65:11 landsman 123:17 language 57:20 137:14 large 94:10 142:9 191:21 larger 33:9 34:17,23 late 110:25 latest 14:5 law 3:17 8:14 10:17 10:20,21 11:2 152:23 lawsuit 9:8 lay 148:2 175:9 laying 105:7 lbg 27:24 lead 58:9 leading 163:15 leads 93:2 learn 185:9,25 186:24 189:2 192:9	leave 103:18 172:8 lectures 19:3 left 82:9 128:23 186:24 leg 71:25 legal 3:4 17:3 94:17 119:24 181:19 legislative 10:15 length 12:14 lesbian 27:23 lesser 62:25 letter 44:12,14,20 44:25 45:6,11 165:24 166:6 letter's 155:8,16 165:24 199:9 letterhead 16:11 121:18 letters 45:13 166:10 level 7:13 139:20 levels 139:18,20 licensed 29:8 licensure 29:10 licensures 29:6 life 61:8,11,22,25 62:2 68:7,11 79:22 98:11 lifespan 61:16 lifts 86:10 light 142:13 187:12 limited 24:23 26:12 88:4 117:22 191:18 line 91:15 107:2 201:3,6,9,12,15,18 201:21 202:3,6,9,12 202:15,18,21 linked 119:5 list 20:11 49:11,12 49:14 84:25 86:5 89:7,19 90:15 117:22 listed 48:8 53:2,5 56:2 57:3 58:8 72:8 72:11,14 86:17 87:24 113:23 115:6	119:17 123:4 140:4 140:22 145:4,6,11 194:18 listing 24:23 120:13 listings 78:20 lists 89:13 123:3 literature 31:25 98:8,23 142:5 157:9 164:15,17 190:25 191:4 litigation 10:10 12:5 12:6,9,10 122:13 little 20:15 27:10 60:12 90:10 104:14 130:23 156:8 158:11,13 163:19 172:3,3,18 175:24 live 68:24 96:22 149:25 lived 107:22 lives 28:16 97:2,11 160:6,6 llp 3:11 long 11:15 17:20 26:24 29:2 31:25 67:10 93:4 158:16 191:21 192:2,13 longer 55:10 59:17 140:15 longitudinal 189:15 look 20:16 25:24 49:24 52:19 64:16 67:23 86:3 100:17 107:13 112:9 117:9 130:10,17,19 142:7 142:19 144:15 151:4 looked 26:20 27:7 86:6 87:7 111:4 122:22 looking 49:3 56:11 74:10,11 85:25 89:5 89:15,18,19 110:11 113:22 115:12 117:10,11,15 119:9
---	--	--	---

125:7 133:4 148:19 150:20 175:23 185:16 188:9 193:13 looks 21:11,14 184:13 lot 99:12 128:24 144:10 157:16 172:2 love 166:12 lumped 65:6 lunch 123:17 luncheon 123:18	111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1,8 197:10 198:5,16 200:20 201:25 202:25 major 55:7 majority 66:19,24 187:18 making 31:19 48:23 49:5,16 52:12 55:5 65:8 66:9 78:18 97:25 103:19 135:9 136:9 157:6 170:20 male 46:13 89:21,22 115:10 man 85:22 137:17 166:20	man's 80:17 managed 128:22 195:15 manhattan 28:23 manifested 54:4 manner 29:23 manual 14:10 65:12 100:6 102:9 manufactured 108:10 march 121:19 mark 15:3 16:3 23:21 81:24 121:7,8 123:9 155:4 marked 15:5,8 16:6 16:10,24 17:13 18:7 21:21 23:24 24:5 52:20 53:25 67:6 69:5 82:4,8 83:10 86:4 105:22 121:11 121:14 124:6,11 155:9 168:19,23 178:21 183:9,14 184:9 marks 109:14 marriage 197:18 married 68:10 mary 11:11 masculine 85:15,25 masculinizing 83:22 84:10,20 85:8,13,17 88:8,11 89:3 massachusetts 178:19 mastectomies 144:6 mastectomy 144:7 145:24 material 50:2 187:2 187:12 materials 19:5 20:19,22 21:10 22:3 matter 100:17 152:16 161:4 178:11 197:20 200:11	mcnamara 3:15 11:9 mean 22:25 28:12 31:9 42:12 43:15 44:17 50:12 60:19 64:9 66:7 69:14,15 69:16 75:5 76:5,9 77:8 78:13 92:9 93:15 96:8,9,24 97:5 98:6 101:15 107:11 109:9 110:12,20 120:22 126:15 130:8 131:19,20 132:7 136:15 141:4 144:16 146:10 151:14,18 153:2 156:12,15,18 158:12 159:20 161:8 163:23 164:15 165:20 167:4 180:15 meaning 48:21 118:23 137:6 141:6 meanings 31:23 means 12:20 27:20 28:13 53:20 57:9 59:11 77:11 118:18 146:11 156:13 meant 53:17 measure 95:13 151:19,20 measured 93:22 medicaid 19:22 23:8 108:17,22 121:10 121:16 122:4,10,16 124:5,13 126:24 127:20,24 128:2,5 128:11,13,17 129:3 129:7,16 199:3,5 medical 8:17 27:13 35:21 46:18 70:4,17 75:12 76:9,12 77:11 77:14 91:5 101:23 101:25 102:16
--	---	---	---

[medical - nonconforming]

Page 18

108:3,24 109:21,22 109:24,25 115:19 126:3,21 128:18,22 129:19 141:3,4,7 152:15,22 153:3 162:11 174:10,19 176:7,8,10 177:3 181:5 190:15 191:19 195:13 medically 76:22 77:7,8,18,21,25 78:19 109:3,6,10 110:4 112:5,21 113:15,18 114:2 115:23 116:18 144:11 medication 8:21 41:20 59:14 69:22 69:25 153:11,12,14 156:6,14 173:21 174:10 175:2 medications 30:8 79:20 129:11 174:19 medicine 29:8 meet 9:16 11:4,7,15 53:20 54:16 55:17 56:21 58:16,19 65:18 135:16 meets 47:25 member 35:9 103:5 195:7 members 98:9 103:10 memory 8:22 men's 133:6,10 mental 13:25 14:10 14:17 27:23 28:16 44:21 70:12 80:7,9 80:14,20 83:23 101:5,8 102:11 107:24 108:3 154:4 157:16 mentally 107:25	mentioned 28:2 37:3 75:10 164:24 167:19 178:3 191:25 met 11:8,10,17 40:23 54:23 59:12 154:2 method 36:16 162:24 methods 36:13 michael 110:24 middle 70:24 80:13 122:24 mik 3:21 mildly 65:22 mind 19:12 90:22 95:14 110:24 150:11,24 165:17 181:7 minds 70:7,20 71:3 minimal 191:20 minorities 98:10,11 98:16,22 minority 92:10 98:4 98:7,13,19,25 152:3 178:6 minors 182:6 188:18 189:9,14 190:23 minute 171:4 mischaracterizes 194:10 mischaracterizing 194:11 misplaced 156:23 misstated 35:17 179:4 mixture 143:6 model 163:11 models 160:16 modified 103:19 moment 193:8 195:22 mongforelin 33:4	month 11:18 months 54:4,9 55:11 107:23 mood 92:2 139:24 morning 6:12,19,21 motions 198:11 motivated 114:16 move 70:10 90:10 118:2 moving 17:9 102:8 muddiness 143:11 143:14 multiplicity 159:19 159:21 161:10 n n 3:2 4:3 99:23 124:2,2,2 178:2 198:2 name 6:8,16 11:11 11:12 32:5,7,8 71:19 104:10,11 159:11 168:3 174:11 named 34:20 narrative 81:10 natal 162:17 165:18 national 154:9 natural 137:7 163:6 172:6 nature 9:11,14,23 19:4 43:8 67:12 necessarily 38:15 50:12 62:18 157:10 necessary 76:18,22 77:4,7,9,19,21,25 78:19 79:4,5 107:25 109:4,6,10 110:4 112:6,22 113:15,18 114:3 115:24 116:18 127:18 necessity 77:11,15 126:3,21 128:19 129:19 137:23 138:10,12	need 13:8 39:23 44:20 54:18 85:23 102:2 108:25 110:19,21 123:11 152:15 159:2 160:9 189:13 needed 157:23 needs 7:14,16 159:17 never 43:21 44:23 110:22 114:10 116:5,24,25 140:19 150:3 170:6 181:7 new 1:3,10,17,17 2:8,9,9,12 3:8,8,14 3:14,20,20 4:5,9,9 6:11,11,14 7:2 10:17,19 19:21 21:4 24:9 25:6,15,21 29:6,9,16,23 33:6 70:12 87:25 103:22 121:16 122:9 124:12 127:3 128:6 128:18 129:8,17 150:5 155:6,7,15 161:25 163:12 165:23 168:16,17 168:23,24 170:23 187:12 193:12,22 194:6,21 197:3,8 199:7,8,12,13 200:5 news 166:5 night 66:17 nine 55:6 128:10 nod 7:17 nomenclature 13:7 non 89:24 109:2,3 109:10 140:7 192:21 nonacceptance 188:20 nonconforming 82:3,14 160:24 198:22
--	---	--	--

nongenital 89:23 nonmedical 173:20 normal 136:23 normalization 137:15 normalize 139:21 nose 85:24 109:19 109:22 111:8,22 148:20 notary 2:11 6:3 197:7 200:24 note 91:10 noted 69:11 196:6 notes 164:12 184:17 notice 2:10 notion 136:19 notions 155:8,16 199:10 number 7:15 15:16 21:12 22:4 26:3 64:3 92:15 132:13 141:2 163:16 190:4 191:21 numbers 65:12 numeral 24:21 120:14 145:7 nycrr 21:3,13 nys 24:10	178:7 181:24 objection 30:13 37:20 39:12 96:3 120:7 126:7 127:4 127:12,22 133:23 140:17 142:2 146:25 147:19 150:7 153:24 156:17 158:9,20 161:16 162:3,6 170:4 172:20 175:16 178:17 179:15,24 182:3 183:4 186:7 194:9 194:23 objections 5:8 objective 138:24 139:3,22 151:4,7 objectively 137:25 138:17 139:8,12 151:13,17,19 obscured 159:18 observer 151:3,7 observers 111:4 observing 135:13 obsessive 30:22 obtain 102:10 obtained 126:4 occasionally 83:7 167:23 occasions 168:6 occupational 57:15 72:24 occur 50:20 99:8 100:22 occurring 43:24 occurs 62:8 100:23 october 19:2 odd 163:9 offer 42:20 200:17 offered 6:23 77:2 182:9 offering 43:12 office 2:8 4:5 29:24	officer 5:13 offices 2:7 okay 28:2 29:14 36:19 67:2 76:11 82:18 87:3 97:8 108:14 117:15 155:24 159:8 old 41:8,15 109:18 once 9:5 153:15 one's 54:2 79:22 110:10,14 136:23 136:24 ones 103:17,18,18 ongoing 59:22 online 19:9 103:24 103:25 opaque 132:5 open 167:13,14 172:8 openly 168:4 opinion 6:23 19:19 20:3 31:21 35:14 36:12 47:18 75:2,5 119:14 120:2,5 137:23 147:15 154:5,19 156:22,24 157:4 158:2 164:4 195:13 opinions 36:18 39:5 112:16 145:25 146:9,10 147:4,20 147:22,23 opposed 95:18 99:3 109:19 147:18 150:5 164:7,21 180:5,20 188:19 option 102:8 order 25:19 44:18 53:20 54:18 77:3 81:8,10 101:25 102:15 159:2 organization 83:3 101:7 103:20 106:12 154:8,13	organization's 102:25 103:8 organizations 122:14 orientation 81:12 original 107:14 122:23 156:8 157:24 166:6 originally 185:18 outcome 93:12 156:7,16 161:3 164:8 175:19 197:20 outcomes 156:9 158:12,16 172:13 172:19 outline 79:3 outside 66:10,13 111:4 151:3,6 overall 76:6,7 84:3 overview 89:16
p			
p 3:2,2 4:3,3 78:14 82:10 99:23 p.c. 15:17 16:13 p.m. 123:18 124:4 196:6 page 15:12 16:5,11 19:13 20:17,17,18 21:25 22:3,10 23:23 24:6,8,8,20,24,25 25:11,13,25 26:2 52:21,24 63:21,22 69:4,6 71:12 82:9 83:13 86:4,12,16,23 87:7,23 89:10,12,15 89:18 90:12 91:9 94:11 106:25 107:2 107:14 108:14 121:15,18 122:4,6,9 122:23,24 124:13 124:23 125:3,4,8 127:2 129:21 130:10,13,14,17			

[page - persist]

Page 20

132:7 142:8,9,11,12 155:14,20,21 156:3 159:9,10,12 163:19 164:11 169:10,11 178:22 179:2 180:17 183:14 184:14,16,20 185:6 185:23 187:15 188:15,16 189:4,7 190:12,14,21 192:8 192:9 198:3,15,17 201:3,6,9,12,15,18 201:21 202:3,6,9,12 202:15,18,21 pages 16:14 paid 110:3 127:16 panel 177:25 pants 170:20 paper 63:13 103:11 166:8 papers 19:3 paragraph 20:6,19 26:9,14,20 27:4 53:3 63:23 65:6 71:12 83:16 86:6,17 87:18,25 88:4,10 94:12 108:16 115:7 117:11,14,18 118:3 118:7,15,20 119:9 120:4,6,14,22 122:12 123:2 129:23 140:5 142:12,23 145:5,15 145:19 148:16 159:15 164:10 165:10 166:11 169:12 194:18 parallel 104:15 paraphilias 33:11 100:8 parenthesis 26:3 parents 160:20,22 161:2,20,21,22 part 20:16,17 34:22 44:8 47:21 65:3,13	71:20 78:5 81:13 85:14 87:8,13 106:14,17,18 109:20 116:19 121:21,25 122:22 131:5,22 132:8 134:11 135:2,7,21 136:9,14 139:9 144:19 149:7 153:7 159:6 184:16 185:23 193:17 194:16 195:6,9 participate 42:20 participated 14:5 particular 27:4 34:8 50:20 61:8,10,18 62:19 74:21 89:17 116:14 121:25 122:21 131:3 173:24 181:10 particularly 189:15 parties 5:5 197:17 partners 11:10 parts 33:9 67:17,22 74:4 132:4 193:21 party 147:24 pass 10:18 133:14 137:25 138:3,17 passed 10:19 passing 10:21 138:19 139:11 178:3 patience 17:12 patient 38:17 41:13 55:16 56:3 65:21 66:8,12,21,24 69:24 78:8,9 93:2 94:8,9 96:13 116:7 131:23 131:23 132:17 139:2,14,25 140:2 140:19 149:20 150:9,14 153:5 182:15 patient's 66:25 78:6 78:11 115:21	130:20 152:8 patients 28:23 30:23 30:25 31:11 41:23 43:5,15,15 56:21 66:19 74:20 78:6 89:16,21,22 92:15 93:20 94:5 96:6 118:23 127:25 128:11,11 129:3 133:19 140:21 141:2 152:10,19,22 190:4 195:9,11 patterns 91:11 pay 77:17 117:3,5,6 126:10 127:8 135:18 158:2 payment 22:20 25:21 26:15 117:18 122:25 125:8,17,20 126:11 payments 26:3 payors 147:24 peck 148:20 pediatrics 93:7 peggy 33:3 penalty 200:8,9 pending 6:25 penis 40:19 people 9:15 30:7,8 32:2 33:12 35:12,24 38:2 41:19 42:15 44:18 45:12 46:24 47:10,11 48:13 50:10 51:3,11,12 59:7 61:21 63:13 65:18,22 66:7 67:22 71:4,20,24 74:18 79:18 80:24 81:4 82:4,14 85:22 87:14 92:9 93:8 94:22 95:19,22 97:18 98:9 98:12,18 99:3 101:22 102:10 105:11 109:24 110:17 111:17,19	117:3 131:12,14,16 131:18 132:11,17 133:13,14,22 134:13,17 135:23 136:5,20,20,22 139:10 141:6,13,18 141:24 144:9,19 151:11 154:13 157:9,25 158:5,14 159:23,24 161:18 161:24 163:20 177:16 180:3 192:23 198:22 people's 28:15 perceive 130:4 131:7,22,24 132:9 132:11,17 133:22 134:11 perceived 134:16 perceiving 134:13 percent 31:4,5,8 59:6 61:5 72:10 140:25 141:15,21 percentage 30:25 51:3 61:3 141:12,13 141:18 percentages 141:22 perception 135:22 136:4,9 perceptions 134:20 perfect 100:4 perform 91:5 128:25 160:13 performance 133:18 performed 125:22 125:25 126:19 128:16 144:18 146:14 148:13 perjury 200:8,9 permanent 47:9 58:22 59:2 60:2 permitted 165:13,16 permitting 9:15 persist 157:2 163:3 165:2 170:15 175:3
---	--	--	---

[persist - present]

Page 21

175:4 187:19 188:5 188:14 persistent 107:17 persister 60:16,22 175:15 persisting 177:18 person 44:25 47:25 49:21 50:3,13 59:12 62:4 66:4 67:7,10 67:13,14 68:2 73:5 74:24 75:2,6,6,9 77:22 96:21,25 97:3 97:6,11,17,19,20,22 112:18 113:3,10,19 114:15,16 115:3,11 115:14,20 116:4,12 116:13,19 129:17 132:9,12,24 133:8 133:22 134:16 137:25 138:16,18 139:11 140:10,10 140:15 149:6 150:11,25 152:6,23 154:2 163:14 182:7 person's 61:8,11,16 68:11 76:16 90:22 90:22 107:20 110:4 119:20 130:24 135:22 136:4,9 138:22 151:12,20 personal 110:17 personally 16:20 110:23 112:11 persons 28:18 42:7 79:9 92:16 95:18,23 99:2 102:16 109:16 128:17 131:24 152:14 153:21 195:4 perspective 93:21 144:21 149:19 150:8,9,13,18,20,21 160:8 189:15 peruse 184:11	ph.d. 166:19 pharmaceutical 34:24 35:6 phenomenon 54:12 54:22 162:11 philosophy 160:18 phrase 171:11,12 physical 102:6 151:15 192:12 physically 70:5,18 73:6 physician 75:8,10 75:17 physicians 77:17 112:15 physiology 151:12 151:14 pick 7:11 picture 179:3 piece 96:15 148:2 place 77:4 88:18 150:3 places 178:19 plaintiff 9:10 10:3 15:15 plaintiffs 1:7 3:5,12 3:18 9:18 18:3 20:2 planning 10:18 101:8 plantation 100:2 plastic 111:3 142:24 143:5 144:8,10,13 145:2,3,7,9,10,12 148:15 play 83:23 174:17 174:17 191:6 playing 103:4 please 7:4,18,23,23 23:22 27:19 32:23 90:15 129:21 184:11 195:22 pneumonia 49:2 point 7:8 8:3 12:7 12:13 13:24 14:14 25:16 26:25 27:2	29:18 46:8 60:22 61:10,25 91:13 140:12 178:8 187:11 188:16 189:13 190:11,24 191:12,16,18 192:10 pointed 89:9 191:17 points 12:15 187:17 187:25 191:13 policies 10:7 policy 21:12 108:17 108:22 population 94:9 96:14 173:11,12 180:5,8 190:7 populations 27:24 portal 56:8 portion 24:16 89:18 122:8 184:10 portions 183:24 185:16 position 163:2 possibilities 48:23 67:24 161:7 possibility 115:13 127:13 158:4 160:23 possible 40:4,6 55:15 89:20 97:18 114:15,19 115:2,16 115:17,18 138:23 140:19,20 157:17 160:21 166:3 post 59:11,21,24 postpubescent 180:20 potentially 140:8 powerfully 55:19 practice 28:17,20,22 29:8 30:3,5 34:9 41:3,4,5 42:5 44:6 44:22 47:21 63:12 67:5 74:17 78:25 79:8 83:6,8 106:23	128:21,22 141:2 160:15 practices 100:11 160:13 164:4 practitioner 115:19 practitioners 114:23 141:24 preceded 13:7 precise 49:4 precondition 129:15 predecessor 166:21 predicators 65:8 predict 169:18 170:10 188:2,4,13 prefer 88:7 prejudice 110:9 prep 81:6 preparation 17:15 17:23 106:14,17,18 121:22 prepare 11:5,21 16:20,23 17:2,4,17 17:20 prepared 18:23 105:7 preparing 18:7 20:20 83:10 105:21 118:14 122:2 prepubertal 176:8 176:25 177:9 190:17 prepubescent 36:2 42:25 60:8,20 93:9 164:5 172:10 180:16,19 prepubic 176:11 prescribe 37:17 46:4 77:17 prescribed 46:2 129:11 prescription 44:9 present 42:16 50:21 55:8 60:8 68:14 174:12 188:2,3,12
---	--	--	---

presentation 31:12 38:15 40:9 67:16	137:22,24 138:11 138:16,21 139:4	106:23 195:6,10,16 195:17	55:10 99:18 128:10 167:15 170:24
presentations 50:10 67:21 68:16,19	140:6 145:9,10 147:18 148:13,22	professionals 83:23 113:5 145:17,23	183:6
presenting 38:23	148:25 149:17	program 128:6	psychiatrists 101:2
presently 30:2 31:4 45:17 103:9	150:4 151:5	136:15	psychiatry 47:14 52:17
pressure 151:20	procedures 22:21 24:22,23 25:21 26:5	prohibition 122:16	psychoanalyst 27:14
presumably 110:11	26:11,16,22 44:11	prohibits 109:5	psychological 69:20 70:17 72:20 79:3,7
presumed 125:24 126:18	71:9,17 74:12,13 76:21 78:21 83:21	project 3:17	92:25 93:3 141:11
pretty 151:9 169:23 171:18	84:2,9,22 85:19 86:2,5,11,14,17,21	prominent 85:23	192:13,20
prevalence 100:14 100:15	86:23 87:7 88:2,3 88:13,15,20,22 89:2	proposed 21:2 22:4	psychologist 33:2,3 33:6 34:7
prevalent 61:12,19 81:16	89:7,13,16,20 90:5 108:23 109:13,19	prospective 172:2	psychomotor 66:21 66:22
prevent 36:5,9,17 36:21 160:13	113:23 114:22 115:5,6 117:19,21	protocol 178:15	psychopharmacol... 30:9
162:19 172:5 175:2	117:23 118:22,25 119:12,17,19,22	protocols 78:3,4,12 78:18	psychosis 48:9 49:25 50:2,7 58:4
preventing 162:22	120:14,16,23 121:3 123:4 125:21,24	proven 36:16,20 127:15	psychosocial 157:17 157:22 173:22
previously 33:23	126:18 127:3,11 128:16 129:7,15	provide 25:8 34:11 41:19 64:19 65:11	psychotherapeutic 41:22
primary 73:20,24 74:2 75:13,17 77:5	139:15,16 140:4,6,7 140:12,13,22 143:6	73:5,10 121:4 127:10 153:7 159:2	psychotherapy 30:3 30:4 69:21
77:6 90:7	144:18 145:4,6,8 146:2,13,23 147:5	175:13 178:10	psychotic 49:22 50:4
prior 13:7 15:22 126:4,22 129:4,8,9	148:15 149:10 153:23 176:23,24	provided 38:3 43:9 63:5 75:12,22 76:7	pubertal 40:16
129:12 145:8	179:12,23 194:18 194:20	126:4,22 134:3	puberty 40:8,11,14 40:20 60:11,12,13
prison 63:14,19	proceed 8:18	provider 77:24 129:18 195:13	93:23 164:25 165:2 165:4 173:25
private 28:22 41:3,4 41:5 42:5	proceeding 6:24,24	providing 153:8 159:6 178:10	174:20 175:3,4,8,9 175:13,20,21 176:2
privy 87:10	process 34:23 84:4 87:9 101:17 132:22	proxies 159:18,20 161:10 163:19	176:3,6 177:5 178:18 181:3
probably 12:14 19:2 21:16 39:2,15 41:9	132:23 153:8,17 157:15 172:7	proxy 161:23,23	191:20 192:14,19
54:16 113:17 171:6	produce 104:12	psychiatric 14:2,12 14:13 29:11 48:3	pubic 74:7
problem 131:10,12	produced 82:25	51:8 53:21 66:7 69:11,19 70:4,18	public 2:11 6:4 131:13 197:8
problems 135:19	professional 21:15 27:12 42:17 44:21	71:14,15 73:4,12 90:14 91:3 92:25	200:24
procedure 44:19 45:5 74:22 80:5	47:18 80:15,21 82:11 83:2,2,3	97:15 99:7,16 100:20 133:20	publication 103:11
84:19 85:7,17 108:25 111:13		195:8	published 14:2,12 19:8,9 21:4 27:21
112:3,5,19 113:21 114:17 115:4,8,12		psychiatrist 27:13 33:4,13 35:4,5	
115:15,23 116:3 118:9 136:14		41:17 46:11 48:5	

33:24,25 36:18 87:5 93:6 103:23 166:6,8 185:16,18 186:6 187:8,13 189:22 192:4 publishers 184:17 publishings 27:24 pull 125:3 purely 113:24 143:5 143:19 145:24 146:4 147:7 purpose 35:25 125:22 126:19 purposes 87:20,21 110:11 118:8 119:10 125:25 147:25 148:25 149:5 pursuant 2:10 15:25 put 109:14 138:14 149:14 153:10 167:11 186:11 187:2,5	178:12 179:16 186:9 188:22 questions 6:22 7:3 12:24 46:8 123:8 125:6 153:20 186:20 193:11 195:20,25 quite 7:9 13:10 57:6 61:14 119:4 quotation 109:14 quote 57:13 83:19 114:17 115:4 142:10,10,19,20 143:10,21 144:25 145:15,19 158:10 170:17,18 171:3 quoted 169:7 178:22	125:20 126:12,14 130:2 132:2,6 143:21 144:25 145:22 146:13,21 147:3 158:11 166:19 167:16 169:15 186:8 191:12 193:6,21 200:10,12 reading 22:14 108:15 109:12 117:23 120:12 reads 118:8 126:17 142:16 reality 119:3 really 79:3,6,11,23 81:11 114:7 137:20 144:24 157:25 175:22 reason 8:17 55:9 101:4 113:6 114:20 115:15 201:5,8,11 201:14,17,20,23 202:5,8,11,14,17,20 202:23 reasonable 174:24 reasons 60:22,24 61:2 64:4 109:18 113:8 114:18 reassignment 19:20 20:8 22:7 88:24 94:18 108:5 137:3,4 137:10 179:7,11,19 179:23 193:22 194:3,6 recall 10:23 19:4 29:17 32:20 128:25 recalling 193:25 receive 40:11,14 127:25 174:25 189:9 196:3 received 15:21 38:4 38:10,21 59:14,16 61:22 107:19,24 126:23 140:22	receives 39:21 40:7 receiving 63:8 101:23 127:20 128:17 129:16 140:11 150:25 158:18 179:14 recess 17:7,10 67:4 123:16,18 173:4 186:17 193:9 195:23 recision 101:17 recognize 155:21 recollection 124:18 181:5 194:12 recommend 176:19 recommendation 44:8,10 45:8 recommendations 103:19 104:5,18 105:3,17 recommended 88:23 recommending 44:21 recommends 176:21 177:22 190:15 reconstruct 144:6 reconstructing 149:23 reconstruction 144:4,24 149:8,12 150:17 reconstructive 142:15,25 143:4,7 143:12,18,24 144:13,16,17 146:4 147:8,17 148:10 149:12,17,20 150:24 151:2 record 6:17 14:8 17:12 39:11 40:3 96:4 120:11 124:9 126:14 197:14 recreate 144:14
q	r		
qualify 188:11 quality 93:13,16 question 5:9 7:24 8:2 13:9,17 17:18 37:21 38:25 39:3,4 39:10,13 40:2 45:22 45:24 57:7 59:25 61:15 62:18 67:25 76:24 88:17 90:18 92:9 95:11 96:2,10 96:19 97:14 101:20 104:24 112:25 114:24 116:6 120:8 134:5 135:5 136:2 139:6 140:24 141:16 142:14 146:17 150:18,19 152:5,19 154:2 162:8 165:12,15 167:13,14 174:4	r 3:2 4:3 6:2,2 46:12 99:23 124:2 178:2 197:2 race 73:2 racial 98:10 raise 43:3 random 192:21 range 61:6,18 65:19 65:20 rare 94:8 190:3 rarely 77:17 rate 18:11 93:13,15 93:18 rates 94:15,16 95:5 95:13,17 rationale 101:23 rationales 102:17,19 reach 118:17 reached 173:24 read 7:7 19:17 20:14 22:18 39:11 40:3 63:12 69:18,19 83:19 84:12 96:2,4 106:13 107:6 117:14,17 118:7,15 120:8,11,21 121:2		

recreated 150:6 reduce 76:14,15,19 78:22 92:24 113:14 138:22 reducing 69:20 70:16 78:11 109:20 118:25 119:4 reduction 85:24 refer 12:7,23 13:6 13:17,19 14:15,23 20:6 22:24 23:5 26:9 64:17,18 74:4 82:17 83:8 136:13 reference 27:3 64:6 94:12 referenced 85:18 referred 45:12 80:6 80:16 119:25 122:2 137:5 146:14 187:21 referring 12:17 14:23 20:5,10 21:24 23:2,6 89:11 108:18 117:2 121:3 122:9 146:13 158:6 165:19 180:19 refers 25:11 46:23 46:24 49:9 64:13 74:2 84:15 118:10 119:12 reflective 141:23 refresh 194:12 regard 97:25 regarding 6:23 70:4 193:22 regimen 91:4 register 21:4 24:10 regret 94:15 95:2,5 95:13,17 regulation 19:23 21:3,13 23:3,7,15 23:16,18 25:5,15 27:6 74:11 86:18 87:25 88:4 108:19 109:13 113:23	115:6 117:8,10 118:19 119:10,15 120:12,21 122:5 123:5 127:3,6,7 140:4,23 145:4 148:17 193:13,16 193:22 194:6,21,25 regulation's 20:11 regulations 22:5 86:21 122:10,15 151:10 194:14 related 25:14 27:15 27:18,20 28:3,5,11 28:20,21,25 29:3 30:12 31:2,16 34:12 43:6,17,18 61:20 62:3,19 67:25 70:13 90:6 103:11 114:9 122:17,17 141:20 143:2 197:17 relates 25:13 relationship 63:4 98:17 130:22,25 relationships 68:10 153:4 relative 92:7 relatively 94:3,6 111:5 161:25 162:10 163:12 192:10 relativeness 51:10 released 185:20 relevant 38:15,20 152:8 reliability 93:18 relieve 153:23 religious 98:10 reluctant 114:12 168:9 rely 78:24 remember 17:22,23 52:9 193:19,23 remembering 89:6,7 remind 45:20 123:6	removal 101:22 remove 101:17 removed 101:13 repeal 122:15 repeat 182:16 repeatedly 99:25 repetitive 105:20 rephrase 7:5 report 16:5,19,21 17:2,4,15,17,21,24 18:7,15,18,24 20:18 20:20 21:21 22:11 23:19 24:14,18 52:20 63:21 66:8,12 66:12,25 69:5 83:10 90:12 91:9 94:11 105:21 106:14,17 107:2 108:15 117:2 118:14,20 119:6 120:3 121:22 122:3 127:2 129:22 130:15 134:22 135:10 142:7,11 193:16 198:15 reported 1:23 66:10 reporter 7:6,13 8:5 15:7 16:8 24:3 82:6 121:13 124:10 155:12 168:21 169:22 183:12 reporter's 8:9 reporting 56:3 reports 56:9 106:20 106:22 134:21,23 represent 161:7 183:23 represented 29:22 reputation 35:11,16 35:20,21 requests 198:6,10 require 13:6 54:8 78:7 112:14 129:4,8 149:8 153:3 required 153:5	requires 59:22 74:21 150:16 152:23 182:7 requiring 109:21 157:16 research 33:21 42:7 50:22 61:4 92:12 136:21 154:9 156:9 158:11,13,15 163:19 172:2,12,18 172:21,23,23 189:14,22,23,25 190:5,6 researcher 35:24 reserved 5:9 resident 128:9 resolved 99:14 116:23 resolves 60:10,11,12 respect 7:23 49:14 55:2 68:21 70:15 76:25 80:2 90:3 92:6,17 103:7 110:6 111:7 120:6 134:10 140:16 147:15 148:22 172:17 177:14 186:21 193:12 194:2,5,17 respected 35:23 respective 5:5 respond 166:9 responding 166:10 responds 159:10 response 97:14 122:13 170:22 responses 97:19 166:7 rest 21:10 restate 179:16 restrict 66:21 restricted 190:5 restroom 131:9,9,15 restrooms 131:13 result 150:4 175:14
---	--	---	---

retain 102:9 retained 102:15 178:10 retardation 66:21 reveal 168:13 revealing 29:13 reversal 94:17 reversible 175:9 review 118:15 155:7 155:15 199:9 reviewed 20:20 25:19 105:23 121:21 reviewing 106:16 revised 122:15 revision 32:14 101:9 revisions 32:14 rhinoplastic 113:10 rhinoplasty 110:2 113:6,22 115:9 rid 67:17,22 right 9:19 11:23 22:2 36:25 64:16 65:4 66:14 75:11 81:7 95:11 119:14 134:6 158:24 161:13 181:19 191:16 risk 180:6 191:20 risks 167:9 182:10 182:11 rivera 3:17 11:12 riya 1:5 robert 46:12 robust 98:23 role 32:9 59:18 80:14 83:24 103:4 107:23 120:13 165:16 167:10 168:11 191:6 195:12 roman 24:21 26:10 26:20 86:6,18 87:25 115:7 117:11,15,16 117:20 119:17	120:14 145:5,7,11 148:16,16,19 149:11 184:18 room 11:9 131:17 131:17 rough 138:6 roughly 10:24 rule 48:16,25 ruled 48:4 rulemaking 21:2 22:5 23:24 24:7,9 25:12 198:18 rulings 198:8 run 99:25 141:12 186:20 running 20:17 runs 54:2	schizophrenia 100:14,16,18 schneiderman 4:6 scholarly 157:8 school 58:11 68:8,9 134:4,21 135:18,18 135:19 168:17,24 174:13 177:20 181:6 199:13 schools 56:10 176:14,18 scope 178:8 183:5 scrap 147:2 se 113:12 188:19 sealing 5:6 seat 170:20 second 22:14 24:20 34:21 142:23 155:21 159:15 secondary 73:20 74:3,6,7,8,9,14,22 90:6,8 175:6,10 section 21:3 22:20 23:6,16 24:19 25:20 26:2 27:3 70:12 101:9 107:7,12 109:5 142:14 146:12 185:3,6,13 185:22 187:15 189:2 see 15:18 16:15 18:15 19:14 22:12 22:16,22 26:2,5,12 30:8,11,11,15 36:19 39:16 48:24 52:22 54:18 55:18 61:21 66:24 67:20 69:8,12 82:15 83:16 84:5 86:7 91:17,21 94:18 107:4,9 109:7 118:5 118:12 124:15 125:8,18 129:24 130:6 133:3 138:9 139:17 141:19 142:17 143:19	145:17 146:5 147:20 148:20 155:18 156:10 169:2,13 178:24 179:8 184:22 185:10 187:9 189:10,18 191:2,8 seeing 141:9,14,23 160:5 seek 71:24 80:15 110:17,20 112:3 115:14 141:3,14,19 152:14 seeking 112:18 129:17 141:10 152:6 seen 96:5 114:11 124:17 126:24 140:19 169:6 self 56:3 66:8,12,25 160:17 sense 25:4 39:13,14 39:15,17 46:13 64:19 68:11,22 76:16 81:20 92:13 144:21 sensitive 79:17 sensitivities 79:18 sensory 85:3 sentence 22:15 107:3 125:17 131:20 146:21 147:3,9,12 165:11 169:23 sentences 69:17 separate 28:9 29:10 48:22 series 6:22 serve 34:25 81:20,21 159:18 served 32:12 33:18 35:8 services 9:19 23:9 25:7,14 26:4,11,16 29:11 34:11 117:4
--	--	---	--

[services - starts]

Page 26

117:19,21 118:9 121:5 122:18 123:2 125:9 126:10 129:15 165:3 serving 102:24 set 103:23 197:12,22 settings 174:13 settled 161:5 seventh 3:13 severe 51:12 61:24 severity 97:12 sex 31:13 73:20,21 73:24 74:2,3,8,9,15 74:22 90:6,8 137:4 137:5,6,7 175:6 177:10,22 sexes 137:2 sexual 32:14 33:10 34:17 70:13 74:5 81:12 98:10,21 100:8,10 102:25 103:2 sexualism 172:12 sexuality 27:16,18 28:3,6,11,14,15,15 28:25 29:3 30:12 34:12 42:19 shake 7:17 shaped 39:7 share 57:19 159:16 shave 75:17 85:21 sheet 200:2,16 201:2 202:2 shoes 133:4 short 172:25 186:15 shorthand 12:4 23:12 87:19,21 88:5 115:8 show 52:4 129:18 showed 192:18 showing 50:22 shown 91:19 shows 54:14 93:11 side 153:14 174:14	signature 197:24 201:24 202:24 signed 5:13,15 significant 64:3 68:4 72:23 91:11,19 108:2 114:20 significantly 57:14 signs 49:24 similar 13:4 104:8 144:14 191:13 similarly 1:6 simple 26:25 simply 109:16 112:19 115:12 118:23 119:7 149:4 165:17 167:12 sis 46:22 47:2 109:18 111:8,21 113:7 114:15 133:16 136:20 150:20 151:8,10 sissy 166:21 situated 1:6 situation 87:12 112:13 114:13 116:5,6 situations 142:13 six 33:12,14 54:4,9 55:11,16 65:10 130:18,20 sketchy 92:12 skews 141:2 skills 51:13,14,15 skin 73:7 111:5 slaves 99:24 100:3 sleeping 66:17 slip 12:16 small 92:15 93:19 94:3,6 110:24 190:4 190:7 soc 83:17,19 84:8,14 84:15,18,21 107:8 142:14 social 51:13,14,15 57:15 72:23 96:16	96:22,24 97:7,10,24 99:19,20 110:8 156:5,19 157:6,11 157:19 158:14 163:11 164:18,19 167:7 170:6 172:9 174:5,9,13 socially 166:13 167:2,4,24 societies 100:10 society 3:4 society's 188:19 solely 30:12 112:4 115:15 118:10 119:12,19 120:16 120:23 125:22,25 126:19 solid 164:12 somebody 54:14 72:13,19,21 75:15 75:22 77:2,12,23 80:2 131:14 149:9 149:15 167:9 179:22 somewhat 51:11 64:5 sorry 20:13 95:10 sort 64:19 65:6,7 78:9 85:20 87:2 114:8 116:25 117:4 128:14 161:6 163:18 181:10 184:16 sought 141:7 source 169:25 southern 1:3 6:25 100:2 speak 136:13 159:23 159:24 181:14,15 181:18,19,21 speaking 28:18 53:10 171:6 181:25 special 185:19 specialized 105:10	specific 84:25 85:2,4 85:19 116:3 specifically 20:5,10 58:12 65:10 143:2 specifier 59:11,20 59:21,24 spectrum 50:24 51:5,21 speeded 66:23 spitzer 33:22 spoke 22:7 48:17 50:19 52:8 178:15 ss 197:4 stab 138:9 stable 144:11 stages 181:2,3 standard 53:21,23 79:11 82:23 84:14 84:15 88:7 142:21 144:25 194:22 standardized 189:16 standards 78:15,17 78:25 79:2,14,23 81:25 82:12,18,20 82:24 84:14 86:12 86:15,24 87:5,9,23 88:13,19,22 89:6,25 92:24 105:24 106:3 106:6,7,10 108:9,12 143:23 145:15,20 154:6,14,18,24 193:18 194:3,7,15 195:2 198:19 start 7:8,25 8:3 12:19 13:24 22:14 39:19 51:24 54:7 72:16 75:24 76:11 97:8 138:13 187:18 started 60:3 93:24 163:7 starting 18:14 71:12 129:23 192:5 starts 26:15
---	---	--	--

[state - symptom]

Page 27

state 1:10 2:7,11 4:5 6:8,14,16 19:22 21:4 25:6,7,16 29:7 29:9,16,23 33:14 83:20 84:8,18,21 87:6 108:16 121:17 122:10 124:12 128:7,18 129:8,17 136:23 164:12 197:3,8 200:25 stated 179:18 statement 19:25 25:20 69:10 71:11 84:14 99:7,9,11 109:15 130:8 132:6 143:8 146:7 165:21 171:10 191:10,24 192:17 193:5,15 states 1:2 15:14 95:18,24 96:7,12 99:3 111:16 156:4 159:15 162:15 stating 26:15 statistical 14:10,16 status 94:18 stay 62:6 103:17 stepping 181:11 stipulated 5:3,7,11 stoller 46:11,12 stop 17:6 87:18 175:8 stopping 63:18 stops 60:21 store 133:2 story 166:5 street 3:7,19 6:11 stress 92:10 98:4,7 98:13,19 99:2 152:2 152:3 188:17 strike 39:19 54:6 72:16 85:5 88:20 138:12 194:4 strong 64:13,18,20 66:8 130:25 132:12	strongly 131:18 studied 42:9 studies 51:17,23,24 52:4 91:19 92:13,14 93:4,14 94:25 95:7 95:12,16 142:4 171:21 189:16 192:5,25 study 33:22 42:12 61:6 93:7,11,16,19 93:21,21,22 94:2,4 94:10,13,21 95:5,9 95:21 166:22 188:7 191:21,25 192:2,18 192:22 193:4,5 studying 96:13 sub 33:7,12,15 subdivision 118:8 119:11 subheading 190:22 subject 23:18 subjective 31:14 66:19 90:21 97:21 130:21 138:24 191:6 subjectively 53:13 116:10 138:2,18 subjectivities 151:8 subjectivity 78:6 137:15 151:8,9 subjects 166:3 191:22 submit 165:24 submitting 103:10 subpoena 15:5,14 15:21,25 198:14 subscribed 196:10 200:21 subsection 27:4 substance 30:24 92:3,11 98:21 substances 151:21 subtle 133:11 subtleties 132:23	subtly 133:13 success 139:4 successfully 108:25 suffering 115:24 suggest 98:19 127:9 suggesting 177:17 suggestive 127:13 suggests 79:15 92:22 191:19 suicidal 41:24 63:20 68:15 176:5 179:12 180:7 suicide 179:5,18 180:4,6 suing 9:19 suits 10:4 summarizing 185:8 185:24 sunday 155:7,8,15 155:16 166:8 172:16 199:8,9 suny 29:19,21 128:8 support 41:23 73:3 171:22 supporting 164:13 164:18 supports 157:22 supposed 149:24 suppressed 40:21 suppressing 192:14 suppression 40:8,12 40:14 164:25 177:4 178:18 191:19 192:20 sure 7:18 11:23 21:25 26:8 85:19 93:15 96:23 97:23 104:23 105:4,13 112:24 132:20 139:7 143:9,13 144:3 151:10 152:21 162:7 163:24 179:25 180:2 182:24 187:14 190:14	surgeons 72:2 75:14 surgeries 85:9 88:24 89:3 110:25 111:3 111:17,20 143:3,13 surgery 24:22 26:10 44:13,15,16 59:15 83:22 84:10,20,24 85:2,3,8,13,20 88:8 88:11 91:5 93:25 108:5 110:10,18 117:20 118:9 119:11 123:3 137:3 137:4,10,11 142:16 142:25 143:5 144:5 144:8,8,10,22 145:2 145:3,7,9,10,23 146:3 147:23 149:12,17 156:5,14 168:18,25 193:23 194:3,6,19 199:14 surgical 44:11 45:4 71:9,17 73:13 74:21 76:10,12 80:4 83:20 84:9,19 85:7 87:6 88:20 89:13,16,20 89:24 90:5 107:15 108:13 118:22 141:14,19 146:2,23 147:5 153:22 176:23,24 177:11 190:16 surgically 44:19 surrounding 42:24 sweden 94:13,23 99:4 swedes 96:10 swedish 94:22 95:19 95:21,22 sworn 5:12,15 6:3 8:19 10:25 196:10 197:12 200:21 sylvia 3:17 11:12 symptom 55:19 56:9 66:20 70:2 130:9 131:3 132:13
--	--	---	--

symptoms 53:14 55:6,22,25 56:13,21 58:6,7,9 59:12 65:20 66:10,11,16 66:20,25 69:21,23 69:24 70:17 72:16 78:9,11 90:21 92:25 97:20 syndrome 166:22 synonym 36:8 system 127:24 128:23 systems 157:17	86:9,22 87:2,21 88:3 91:14,24 114:5 115:5,9 134:6 138:10 144:3,5 146:18,22 147:10 147:17,21,22 148:6 148:8,11,12,18 151:24 162:9 164:19,20 165:7 170:5 171:14 173:9 173:19 176:13,15 177:21 180:14 181:9	77:15 78:12 80:11 85:11 93:4 98:3 109:10 136:17 137:21 143:17,24 143:25 144:17,22 145:2,3 158:16 180:18 191:21 192:2,13 terminology 127:21 terms 11:25 13:3 47:4 50:18 60:19 62:20 67:15 68:13 73:11 75:25 79:8,20 84:24 93:17 97:25 104:18 105:7 113:18 143:11 144:4 150:22 152:6 157:22 158:17,23 162:11 182:25 191:5 testified 6:4 186:25 190:13 testify 8:23 testifying 81:19 testimony 8:13,18 9:25 10:2,11,14,17 10:22,25 15:25 18:3 45:25 51:16 52:3 62:14 72:6 79:25 81:15 88:21 90:24 102:13 111:6 116:16 135:20 177:7 178:9 181:8 193:15,19 194:2,10 194:12 197:14 testing 95:5 tests 192:20 text 25:13 53:3 57:17 118:18 125:12 thank 89:14 184:8 196:2,5 thanks 17:12 137:20 themselves 59:19 116:12 162:18	theoretically 115:2 therapeutic 136:15 172:4 therapy 10:20 107:19,21 129:2 141:20 145:10 154:10 thesis 166:19 thin 108:10 thing 71:5 81:7 132:15 150:5 172:9 174:24 176:16 things 17:9 19:2 43:22 48:16,17 49:11,12,14,18 58:13 63:12 66:16 133:17 144:5 151:22 152:25 187:10,10 think 8:3 9:22 10:18 11:11 13:18 17:18 26:7 29:25 35:17,19 35:23 37:3 39:16 42:3 43:20 44:14 50:11 58:21 61:6,20 61:21 62:18,20 71:10,22 72:12,17 75:8 77:18,21 89:9 92:8 93:20,25 96:5 96:12,14 100:18 101:4 108:9 109:12 109:22 114:6,7,20 115:10 116:11,13 118:20 129:10 130:10 133:17 143:10 144:15,20 147:25 154:8 157:14 163:12 164:3 169:7 171:25 175:17,18,23 177:18 180:11,11 180:13 181:8,13 186:18 194:9 thinking 49:16 133:6
t	talks 57:8 88:10,19 98:8 tanner 180:25 181:3 task 8:9 tasked 32:13 teach 174:17 teacher 134:23 135:9,15 teachers 134:4 tease 132:20 teased 65:5 143:15 technical 31:24 technique 175:22 techniques 71:7 telephone 171:4 tell 14:7,22 16:17 24:16 31:20 32:23 35:14,21 70:20 73:23 153:12,13 156:25 168:8,12 170:18 196:4 telling 168:13 temporal 54:17,25 tend 13:19 92:17 tends 61:11,19 70:10 92:24 term 12:16 13:5,7 23:14 31:7,24 32:4 32:4 36:7,7 43:23 43:25 44:4 46:10,15 46:23 47:2,6 60:16 66:13 73:19 77:11		
t 4:6 46:12 78:14 82:10 99:23 124:2 178:2 197:2,2 table 12:3 tact 162:21 take 8:6 17:7,20 52:19 55:10 77:4 101:8 107:22 123:14,17 133:18 138:9 149:14 156:13 163:2 169:21 172:25 186:15 taken 17:10 67:4 101:19 123:16 173:4 186:17 193:9 195:23 200:11 takes 26:24 53:12 57:25 talk 8:7 28:10 62:23 64:11,23 68:6 79:5 85:16 88:7 97:16 144:21 158:2 176:12 talked 167:22 talking 7:25 8:4 12:10,14 13:24 23:17 27:5 37:25 49:6,8,18 56:24 58:6 64:23 85:6			

third 107:2 145:19 147:24 164:10 169:11 190:11 thought 10:6,8 12:2 105:8 137:6 176:14 176:19 177:21 thoughts 42:21 threat 179:18 threats 179:5 three 10:24 68:15,17 89:25 128:9 164:23 166:3 171:15,22,25 172:17,19 174:3,22 176:13,14,18 181:20 189:12 191:14 time 5:10 7:3,25 12:7,16 17:6 18:23 26:24 31:25 34:2 45:16 47:9 54:11 59:23 61:8 62:2 67:11 71:10 108:2 123:14 124:20 133:12 173:7 175:24 186:11,13 187:4,5 196:5,6 times 9:3 12:23 61:22 155:6,7,15 165:23 168:16,24 199:7,8,12 timing 84:2 tired 66:18 title 19:14 82:12 183:15,20 184:4,6 titled 24:7 26:10 124:13 168:24 185:7 today 6:22 7:4,9,10 7:21 8:13,18 10:6 11:5 12:7,8,11,14 13:2 15:22,24 18:4 23:5 43:12 46:16 172:14 told 66:4	top 15:13 16:10 24:8 91:16 94:12 121:18 155:15 159:9 188:16 192:8 topic 20:2 90:9 toronto 33:2 34:11 163:25 165:8 172:22 tracheal 75:16 traditional 80:8 tragedy 62:8 trans 35:24 81:4 136:18 156:7,16 160:14 166:23 transcript 7:14 196:3 200:10 transforming 70:9 transgender 21:16 23:8 25:14 42:14 46:22,24,25 47:3,4 63:13 82:3,11,13 83:4 108:24 109:2 111:22 112:2,18 113:3,9,19 114:16 115:3,14 118:22 122:17 131:12 136:22 137:7,14 140:11 144:19,20 144:23 149:20 150:9,14,21 151:9 156:20,20 160:2,4,8 160:9,12,25 168:4 168:17,25 169:19 170:11 180:8 183:8 183:15 198:21 199:14,17 transgenderism 136:19 transient 54:12,22 transition 44:19 59:11,21,24 80:19 80:22,24 81:13 84:4 85:15 92:19,22 94:16 109:2 122:17 137:9 141:3,5 156:5	156:7,19 157:6,11 157:14,19,21,23 158:15 161:6 163:12 164:13,19 165:13,16,18 167:7 167:12,24 170:6 172:10 174:9 175:5 transitioned 166:13 167:2,10 transitioning 167:5 transsexual 42:2 80:16 82:2,13 115:11 198:21 transsexualism 36:6 36:6,10,17,22 70:11 162:19,23 172:6 trauma 149:6,10 treacherous 169:17 169:22 170:7,9 treat 27:19 28:23 30:7,19,20,20,21,23 35:12 38:9,16 42:15 45:5,18 49:25 54:22 74:14 77:25 80:5,23 113:11 148:13 154:4,11,25 167:15 167:17 treated 37:5,10,24 38:11 41:2,6,7,10 41:14 42:4 45:16 59:3 73:12 131:2 132:21,23 134:25 140:21 166:20 treater 77:6 78:9 treating 27:15 28:17 29:2 35:25 40:23 41:12 42:13 43:5 45:17 65:14 66:5 74:17,19 75:7,10 77:12,22 80:2 87:14 109:15 112:15 113:4 114:22 115:20 136:22 139:10,13 141:24 154:16 157:7 158:7	161:15,24 178:4 183:7,15 199:16 treatment 19:24 25:8 28:11,20 30:22 37:16,17 38:3,4 41:20,21,22,24,25 42:10,22,24 43:3,9 44:6,9 45:8,14 59:7 59:14,16 61:23 62:5 63:5,9,18 69:7 70:5 70:8,18,25 71:9,16 73:6,10 75:7 76:5,9 76:13 77:18 78:4,5 78:22 79:7,12,22 81:10 87:17 90:20 91:4 93:12,24 101:24 102:2,3 104:19 105:2,10,12 105:17 106:7 107:8 107:15,16 108:7,13 109:22,25 112:21 113:13,13,16 116:9 129:4,16,18,19 137:20 141:8,10 144:2 146:15 147:10,11,13 148:8 150:25 152:7,9,11 152:20 153:16,17 154:19 159:3,4 162:4,13,15 163:21 164:22 166:16,24 174:2,11 176:20,22 177:3 179:14 182:2 182:8,11,19 184:24 189:14 190:8,16,23 190:25 191:4 195:14 treatments 19:20 20:8,11 22:7,19 30:9 38:9,21 39:6,7 39:18,20,22 41:18 43:11,17 73:13 75:11,12,21,25 76:3 76:6,8 77:2,4,7 78:7 79:3 87:22 141:11
---	--	---	---

144:13 153:6 173:16 189:8 treats 154:23 trial 5:10 tries 119:6 trouble 134:22 true 59:5 80:16 97:17 104:22,25 111:16 150:2,22 180:9 197:14 200:13 truthfully 8:23 try 7:5,11 8:6,7 36:5 36:9 44:4 71:5 97:15,16 139:11 144:13 160:13 162:16,19 172:5,6 172:11 trying 72:12,17 76:18 88:5 99:15 100:4 117:4 133:14 147:16 148:3 163:17 167:7 171:13 184:7 188:8 tuesday 1:18 turn 19:13 69:4 83:13 106:25 124:23 129:21 twenties 93:10 two 10:24 11:8 21:12 31:23 54:5 55:8,16 98:17 103:9 132:4,15 151:7 172:4 173:10 180:24 181:18 187:25 189:12 type 37:16 38:2 51:4 59:22 111:13 115:14 141:10 149:6 174:16 types 41:18 64:14 76:25 86:11,16 140:3 typical 85:25	u u.s. 178:16 ulm 33:5 um 12:12 57:2 125:10 143:22 169:5 unable 107:22 unacceptable 99:20 unaware 73:9 uncomfortable 50:15 undergoing 139:15 139:15 179:22 understand 7:3,5 8:2,15 12:9,12,20 12:22 13:10,11,20 13:22 14:16 23:11 23:17 25:12 27:5 37:21 38:25 39:10 41:13 45:25 51:16 52:3 56:24 57:6 61:15 62:14 76:24 78:16 81:15 84:16 88:3,6 96:19,23 102:13,23 111:6 112:24 116:16 126:5 135:5 138:5 146:12,17 147:9 152:21 153:15 176:15 177:7 182:10,16,17,18,19 understanding 13:2 14:9 25:2,5 70:23 73:24 74:13 77:10 77:14 84:7,21,23 87:4 88:12 91:8 95:4 96:6 143:25 147:14 167:6 182:8 200:16 understood 35:19 134:9 135:20 162:7 underwent 192:19 unfold 163:7	unfolding 172:7 unfortunately 142:24 unique 57:5,17,25 69:11 71:14 73:15 90:14,16,20 136:11 uniqueness 70:7 united 1:2 15:14 95:18,24 96:7,11 99:3 111:16 162:15 universe 21:19 75:21 88:12 unknown 51:2 60:22,24 61:2 unquote 114:17 115:4 unrelated 113:16 118:24 unusual 179:21 180:2 update 19:9 121:11 121:16 122:22,24 124:6,13 199:4,6 updated 186:5 updates 122:4,10 upper 82:9 usa 10:6 use 9:19 13:5,22 23:14 31:6 43:23,25 44:4 47:6 78:12 79:20 85:11,12 87:19 91:6 102:6 109:9 111:7,21 113:7 127:21 137:21 139:22 140:5 170:8,17 172:6 180:23 192:14 uses 104:14 143:17 143:23 usual 179:25 usually 44:20 46:5 50:2 58:25 139:18 157:16 176:3	utilize 83:6 utilized 83:9
			v v 12:5 14:21,24 15:15 24:21 26:10 26:20 32:5,8,12 35:2 52:8,13,16 53:7,7,24 59:9,23 61:9 64:14 69:24 71:22 72:8 86:6,18 87:25 88:4 101:17 102:15 104:2,17 115:7 117:11,14,16 117:20 118:3,8,15 119:9,18 120:4,6,14 120:22 140:5,23 145:5,7,11 148:16 148:19 149:11 194:18 vague 64:5 181:5 validated 189:17 valuation 94:22 value 14:16 vanity 109:3,10 110:6,12,14 111:9 111:13,17,23 113:8 114:18 115:12,15 115:22 116:19 variant 159:17 variants 185:7 varied 62:20 varies 57:22 variety 62:15 109:17 various 12:15 42:21 62:3 93:23 113:4 130:22 161:24 176:12 vary 47:10 61:4 verbally 7:19 version 14:19,24 103:23,24,25 104:6 174:15 179:3

versus 49:2,2 99:20 142:15 143:12 vi 184:18 victims 144:9 viewed 135:23 136:5 168:3 views 162:10 vigorous 191:5 vii 184:19 violation 9:20 viral 48:25 visible 66:23 vitae 18:13,17 19:6 vitality 188:20 voice 7:9,11,12 145:9 volume 14:4 vs 1:9 200:4	wax 61:24 62:12 waxing 63:3 way 31:16 39:16,17 50:11 65:5 67:23 68:6 70:21 92:23 101:3,18 104:2 116:14 117:6 129:5 136:6 138:14 139:24 166:25 186:6 188:2,3,12 197:19 ways 71:6 90:15 107:4,5,6 website 9:16 wednesday 166:7 week 19:9 54:14 55:8 weigh 74:25 75:4 welcome 138:8 went 19:8 west 3:19 6:10 whereof 197:21 white 117:7 148:5,7 wide 65:19 widely 12:25 wilkie 11:13 william 33:13 183:18,19 willkie 3:11 11:10 wind 168:12 wish 44:18 67:17,18 71:20 109:16 110:9 wished 80:19 wishes 110:10 wishing 109:16 witness 6:3 9:10 16:19 89:12 123:11 197:11,15,21 198:3 wohlmark 33:13 woman 68:24 80:18 80:18 137:18,19 women 80:20 177:25 women's 133:9	word 170:7,8 words 169:21 work 32:12,19 33:7 33:12,15 34:17 58:11 68:9 99:12 103:8,11,12,13,13 103:15 128:8 188:10 working 32:19 33:9 33:10,11,15 65:21 68:8 101:19 102:25 103:9 138:7 170:19 world 21:15 82:10 83:3 101:7 102:24 103:7,20 138:8 150:10 worse 62:9 worsened 63:19 wpath 78:14,15,17 78:24 79:2,11,14,23 82:10 83:4 87:5,8 105:24 106:2,6 107:8 108:9,12 142:11,14 143:10 143:17 146:10 147:22 154:6,14 194:15 wrapping 25:25 26:7 155:20 write 28:13 45:10 165:25 166:2 writer 159:10 writing 17:24 21:20 24:14,17 28:19 136:21 written 42:23,25 44:12,14,24 45:6 136:19 151:10 155:22 157:8 159:13 wrong 131:17 149:23 150:10,14 wrote 155:23 192:4 192:5	x x 1:4,12 198:2 y y 106:12 year 9:21 10:23 34:24 93:7 109:18 years 10:5,24 27:25 29:5 41:8,15 93:11 93:23 128:9,10 163:9,14,16 164:2,3 york 1:3,10,17,17 2:8,9,10,12 3:8,8,14 3:14,20,20 4:5,9,9 6:11,11,14 7:2 19:22 21:4 24:9 25:6,15 29:7,9,16 29:23 33:6 121:17 122:9 124:12 128:6 128:18 129:8,17 155:6,7,15 165:23 168:16,23 170:23 197:3,9 199:7,8,12 200:5 young 41:7 93:8 165:13,15 166:19 177:19 181:17 younger 42:11 178:4 youngest 41:9,13
w			x
w 82:10 wait 7:23 55:18 waived 5:6 walk 132:25,25 walking 131:15 wanderlust 99:25 wane 61:24 62:12 waning 63:4 want 48:8,16,22,25 49:4 54:22 55:10,18 67:22 75:8 111:13 115:3 117:5,5 120:5 133:4 161:4 166:14 168:12 171:19 187:9 wanted 35:4 75:16 80:17 111:22 112:19 113:6,8,10 166:4 173:8 wanting 111:8 wants 75:7 109:19 115:11 washington 33:14 water 3:7			y y 106:12 year 9:21 10:23 34:24 93:7 109:18 years 10:5,24 27:25 29:5 41:8,15 93:11 93:23 128:9,10 163:9,14,16 164:2,3 york 1:3,10,17,17 2:8,9,10,12 3:8,8,14 3:14,20,20 4:5,9,9 6:11,11,14 7:2 19:22 21:4 24:9 25:6,15 29:7,9,16 29:23 33:6 121:17 122:9 124:12 128:6 128:18 129:8,17 155:6,7,15 165:23 168:16,23 170:23 197:3,9 199:7,8,12 200:5 young 41:7 93:8 165:13,15 166:19 177:19 181:17 younger 42:11 178:4 youngest 41:9,13 z zoey 4:11 zucker 1:10 12:6 15:15 33:2,17 34:3 34:5,14,19 35:8 36:14,16,20 200:4 zucker's 35:11 165:8 166:15,18,20 167:3

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.